REPORT

OF THE

WORKING GROUP

ON

CENTRAL DIRECT TAXES ADMIN RATION

ADMINISTRATIVE REFORMS COMMISSION

JANUARY 1968

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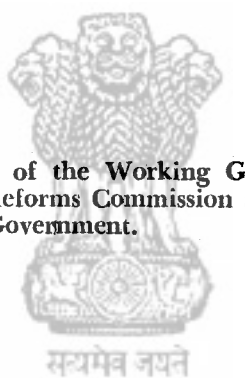

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ADMINISTRATIVE REFORMS COMMISSION

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WORKING GROUP ON CENTRAL DIRECT TAXES ADMINISTRATION

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Chairman

Shri Mahavir Tyagi.

Members

Shri S. N. Dwivedy.

Shri S. A. L. Narayana Row

Shri R. N. Jain.

Secretary

Shri V. Gauri Shanker.

Senior Analysts

Shri M. G. C. Goyal.

Shri P. P. Menon.

Personal Assistant

Shri R. L. Malik.

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LETTER OF TRANSMITTAL

MAHAVIR TYAGI,
Chairman,
Working Group on Central Di
Taxes Administration.

NEW DELHI
January 31, 1968

My dear Hanumanthaiya Ji,

I have pleasure in forwarding h the report of the Working Group on the Central Direct Taxes A ration. As you are aware, this Working Group was constituted on th. n August, 1967 and was given fairly comprehensive terms of enquiry.

2. Taxation even as a purely revenue raising measure affects the people at large; but when it is made to subserve social and economic objectives, it affects the people in a most powerful way. The Administration, therefore, has to see that no avoidable irritation is caused to the tax-payers and inconvenience to them is minimised. At the same time, simplification of procedure should not be so over-done as to disturb the balance of the impact and incidence of taxation as between different sections of the public. An over-simplified tax structure might as well amount to denial of justice. Therefore, in framing our conclusions we have directed our attention to those areas of Tax Administration which cause avoidable inconvenience and irritations to assessees.

3. Revenues being the sinews of a Nation's peace and prosperity, the Tax collecting agency has to be efficient and diligent enough in the tasks entrusted to it. We have been witnessing for some time now an erosion of this efficiency which has led to widespread evil of tax evasion and uncollected arrears. In this Report, we have given prominence to those measures which, we think, are necessary to stop this erosion so that the officials of the Tax Department, freed from hampering procedures, will work for establishing an honest, efficient and dedicated tax collection service.

4. I personally wish to record here that the two official Members, Sarvashri S. A. L. Narayana Row and R. N. Jain have shown a commendable objectivity in examining the issues involved in our study and comments. The other Member, Shri S. N. Dwivedy, Member of Parliament, has not spared himself from attending to the exacting work of this Working Group in spite of a serious set-back to his health.

5. As already mentioned in the Preface to our Report, we are deeply indebted to Shri V. Gauri Shanker, our Secretary, who brought to bear

on our study his vast knowledge of the history of the development of the Central Direct Taxes Laws in India and their administration. But for his mastery over the subject, it would not have been so easy for us to make such a detailed study of the vast subject entrusted to us within the short period at our disposal.

With kind regards,

Yours sincerely,
Sd. MAHAVIR TYAGI

Shri K. Hanumanthaiya,
Chairman,
Administrative Reforms Commission,
New Delhi.

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PREFACE

PREFACE

The Working Group on Central Direct Taxes Administration was constituted by the Administrative Reforms Commission on 9th August, 1967 consisting of the following members—

Shri Mahavir Tyagi	Chairman
Shri S. N. Dwivedy, M.P.	Member
Shri S. A. L. Narayana Row, Chairman, Central Board of Direct Taxes	Member
Shri R. N. Jain, Director of Inspection (Income-tax—Investigation)	Member
Shri V. Gauri Shanker, Director of Revenue Audit ...	Secretary

The Working Group was asked to report on—

(i) the machinery for the assessment and collection of the Central Direct Taxes and make recommendations with a view to achieving greater speed in completion of assessments and collection of taxes and greater efficiency in tackling tax evasion;

(ii) the procedures which assesses and departmental officers are required to comply with and suggest modifications thereof with a view to eliminating avoidable inconvenience to assessees and unproductive labour for the administration; and

(iii) locate the situations in which needless complexities are created in the administration of the tax laws, and make suggestions for removing them.

2. The Working Group was required to report within three months from the date of its constitution. However, as the terms of reference were comprehensive and required study of the problems both in range and depth, it was found difficult to submit the report within the short time of three months allotted. Hence, the Working Group felt the need to ask for extension of time uptil 31st January, 1968 which the Administrative Reforms Commission was good enough to allow. Thanks to the cooperation extended to the Working Group by officials and non-officials who promptly and gladly responded to the invitation to send their views, it has been possible for us to submit this report within such a comparatively short time as six months.

3. Administration of Direct Taxes came in for a comprehensive and a detailed enquiry at the hands of the Direct Taxes Administration Enquiry Committee which gave its report in November, 1959. Incometax which is the main tax among Direct Taxes was the subject matter of enquiry by several Committees and Commissions beginning from the Taxation Enquiry Committee appointed in 1921 to the Bhoothalingam Committee appointed in 1966. In spite of such frequent and detailed examination of the state of law and of its administration and steps taken in the light of the findings of those Committees and Commissions, the maladies from which the Incometax Administration has been suffering for many years, such as, accumulation of pendency in assessments, accumulation of tax arrears and growth of tax evasion, remained uncured. The Working Group, therefore, thought it necessary to get at the roots of the problems and suggest remedies which would enable the Department to acquire prestige and efficiency. In making suggestions in this regard, the Working Group has taken into consideration the existing frame-work of the Incometax Administration and the traditional bounds of its activity.

4. The problems examined and solutions suggested by the Working Group relate mainly to the Incometax Department. This is so because the administration of the other Central Direct Taxes Acts, such as the Wealth Tax Act, the Gift Tax Act and the Estate Duty Act, forms part of the general incometax administration and the main purpose of these enactments is merely to provide as self-checking system to verify the accuracy of the Incometax returns of the concerned assessees rather than to serve as revenue yielding instruments. However, where there is any problem peculiar to any of these enactments which is not covered by the general problems examined by us, we have dealt with that situation separately at the appropriate place.

5. The Working Group, in formulating its views, had the benefit of studying the memoranda, the views and the representations of many non-official bodies such as, Federation of Indian Chambers of Commerce and Industry, Associated Chambers of Commerce, Indian Merchants Chamber, Bombay, All India Manufacturers' Association, Bharat Chamber of Commerce, Calcutta, the Institute of Chartered Accountants, the Western and the Southern Regional Councils of the Institute of Chartered Accountants, the Federation of the Gazetted Officers Association, and the Indian Revenue Service Association, etc. The Working Group was also favoured with the views of eminent persons who have experience of the administration of the Incometax Law, such as, Shri T. T. Krishnamachari, formerly Finance Minister, Government of India, Shri R. S. Gae, Secretary, Law Ministry, Shri A. K. Roy, formerly Comptroller and Auditor General of India, Shri A. N. Shah, formerly President of the Incometax Appellate Tribunal, Shri T. P. Mukherji, the President, Incometax Appellate Tribunal, and Shri J. P. Singh, formerly Chairman, Central Board of Direct Taxes.

Many Commissioners of Incometax, Assistant Commissioners of Incometax, Incometax Officers and some officials in the non-gazetted ranks have also responded to the invitation of the Working Group to send their observations and views, and the Working Group is glad to record that these views were refreshingly candid, practical and devoid of any departmental bias. Many of the Accountants General who have observed the Working of the Incometax Department in the course of their revenue audit activities have also given the Working Group the benefit of their comments which in most cases have been found to be very helpful.

6. The Chairman and the Members of the Working Group held 11 sittings in Delhi and visited the Commissioners' charges in Bombay, Madras, Lucknow and Bangalore. The Working Group also arranged for a case study of selected files in representative charges, such as Bombay, Delhi, Madras, Kerala and Punjab. Before commencing the examination of the matters entrusted to the Working Group, the Chairman of the Group held discussions with Shri S. Bhoothalingam and Shri Ernest H. Vaughn who were concurrently studying some problems relating to the Incometax Law and Administration, so as to exchange ideas on over-lapping areas.

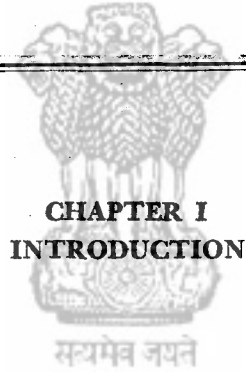
7. The Working Group is indebted to all those who have helped it in its study and in formulating its conclusions. Particular mention should be made in this regard of the very valuable assistance rendered by Shri M. S. Nadkarni, Director of Inspection (R.S.P.) and by Shri R. Balasubramanian, Administrative Officer, Office of the Comptroller and Auditor General of India.

8. The Working Group is deeply indebted to Shri V. Gauri Shanker, Secretary, whose wide experience, thorough knowledge and clear grasp of the fiscal laws and their administration was of immense assistance to us in our study of the problems examined. With his characteristic qualities of speed and thoroughness he has helped us a great deal in getting our report compiled in time.

9. We record our deep appreciation of the assistance rendered by the two Officers on Special Duty—Shri P. P. Menon and Shri M. G. C. Goyal (I.T.Os.) who by their sincere work and zeal gathered valuable materials for our study and assisted us in bringing out the Report.

10. We have also pleasure in making a special mention of Shri R. L. Malik, P.A. to our Secretary, Shri V. Gauri Shanker, and the staff of the Typing Pool of the Administrative Reforms Commission who did the major work of getting the various papers ready, typed and filed.

MAHAVIR TYAGI
Chairman



CHAPTER I
INTRODUCTION

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INTRODUCTION

The Direct Taxes Acts at present in force are—

(a) The Incometax Act, 1961;

(b) The Estate Duty Act, 1953;

(c) The Wealth Tax Act, 1957; and

(d) The Gift Tax Act, 1958.

The oldest of these Acts is the Incometax Act which has been in existence right from 1860. Except the Estate Duty Act, the other Direct Taxes Acts were introduced more as a means to check incometax evasion than on purely fiscal grounds. The Expenditure Tax Act was also one such measure but it has been repealed in 1965 because of difficulties encountered by the Administration in enforcing the provisions of that Act. The relevant importance from the revenue point of view of the various Direct Taxes Acts can be gathered from the revenue yield from these Taxes. The figures of collection from these Taxes for the past five years are given below: —

(In crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66
	Rs.	Rs.	Rs.	Rs.	Rs.
Corporation Tax	160·81	220·06	287·30	313·64	304·84
Taxes on income other than Corporation Tax	67·19	92·13	126·29	143·16	148·46
Estate Duty	0·33	0·06	0·42	1·35	0·13
Wealth Tax	8·26	9·54	10·50	10·52	12·06
Gift Tax	1·01	0·97	1·13	2·22	2·27
Total ..	237·60	322·76	425·64	470·89	467·76

(NOTE—The figures in respect of Taxes on income other than Corporation Tax and Estate Duty are exclusive of the States' shares).

2. Even though Corporation Tax and Taxes on Income other than Corporation Tax are shown separately in the above statement, for practical purposes we may deem both the taxes as belonging to the same category, namely, Incometax.

3. Considering the importance of incometax from the revenue point of view and considering that the other taxes are merely complementary to incometax, it would be appropriate if the problems relating to incometax are examined first.

4. Direct Taxation is not new to India, introduced by the British, but a most ancient and well known institution. There are references both in Manusmriti and Arthshastra to various taxes. Thus, the State's share of the income was fixed in normal times between 1/12th and 1/6th, depending upon the quality of the soil and the amount of labour expended. Besides this, non-agricultural classes also were made to contribute their share. In Kautalya's Arthshastra, mention is made of a large number of sources of revenue like portion of profits payable to the Government (Bhaga), religious taxes (Bali), road cess (Vartani), tax on capital (Mula), etc. Reading through his exhaustive and penetrative discussion on how a King should avoid keeping his subjects waiting unnecessarily for audience, or the forty ways in which the revenue of the State was capable of being embezzled, or the manner in which the State could encourage informers through rewards ensuring, at the same time, avoidance of the growth of unscrupulous black-mailers, or the grant of remission of tax on emergent occasions, or the way in which the validity of accounts and the truth regarding income, wealth or expenditure of the citizens should be ascertained by agents who would go round and make discreet enquiries, a modern reader can easily persuade himself to believe that the discussion is of the present day problems.

5. In fact, as was confessed by one of the former Finance Members of the Viceroy's Executive Council, "between cultivators and traders, poor and rich, no sense of unequal treatment was allowed to subsist under the system which the predecessors of the British in the Empire for centuries pursued, but when the British superseded them, they actually abolished the structure of direct taxation which their predecessors had laboriously raised."

6. The British, of course, revived direct taxation in the form known to them, namely, Incometax, in 1860. However, the period between 1860 and 1886 was one of a trial and error and it was only in 1886 that income-tax became a permanent feature of the Indian Tax system and the Act of 1886 is the basic structure on which future Incometax Acts were built.

7. It may be of interest to know that the total yield from incometax for the whole of India under the 1886 Act was Rs. 1.2 crores (against nearly Rs. 450 crores collected now), and the number of persons taxed on incomes exceeding Rs. 10 thousand was 6926 of whom 3350 were Government servants. Persons paying tax on incomes exceeding Rs. 1 lakh were 102 in the whole of India and they paid 7 per cent of the total revenue collected.

8. The next important milestone in the history of Incometax is the Act of 1918. Under this Act, among several new features introduced, was one which provided for taxation of the income of the current year itself on the basis of the income disclosed in the previous year, subject to an adjustment later after the final figures of the current year were known.

9. Between 1923 and 1939, several amendments were introduced in the Incometax Act and it is not our purpose to re-count all of them except to point out that there has always been a war between the tax payer and tax gatherer—the tax payer ever on the alert to find out the loopholes in the law and the tax gatherer trying to meet it by a fresh amendment. Even so, the amendments made between 1923 and 1939 are not a patch on the frequency and volume of amendments that are rushed through the Parliament now-a-days.

10. The 1939 amending Act was perhaps the most comprehensive of all the amendments moved to the Incometax Act and was the result of acceptance of recommendations of a Committee of officials appointed in 1936. The War broke out in 1939 and from that time onwards up to the present day the Incometax Department has not been able to stand up to the strain of complexity and volume of work caused by tremendous increase in the number of assessments to be completed (from just 4 lakhs in 1944-45 to 48 lakhs in 1966-67), emergence of black money and the thousand ways adopted by the assessees in concealing it, inadequate staff and falling standards of efficiency and utilising the Tax system as an instrument to implement fiscal objectives and socialist principles. Thus, today, in addition to the Incometax Act there are the Estate Duty, the Wealth Tax, the Gift Tax forming part of the Direct Taxes system.

If a Tax system is functioning properly, there should be—

(a) no arrears of assessment at the end of the tax year;

(b) no arrears of tax demands at the end of the tax year;

(c) every attempt at tax evasion would be promptly and properly dealt with so as to—

  (i) discourage such attempts in future on the part of the tax paying public; and

  (ii) make the tax evader feel that he has committed a crime against the society.

(d) a sense of faith on the part of the tax paying public in the efficiency, impartiality and sense of fairness in the Tax Administration; and

(e) absence of a sense of irritation and harassment created by burdensome procedures.

11. If these factors are present, it will be an ideal state of affairs. But it is impossible to expect the ideal to prevail. However, our attempt should be to have the ideal as the goal and direct our steps towards it. It is in this context, but with a sense of realism, we have framed our recommendations in the following Chapters.

CHAPTER II
SPEEDY DISPOSAL OF ASSESSMENTS

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SPEEDY DISPOSAL OF ASSESSMENTS

2.1. *State of Arrears—*

The chronic state of arrears of assessments in the Incometax Department is a theme commented upon by various Committees and Commissions that reported on the Incometax Administration. It is common knowledge that right from 1939 up to the present day, the Incometax Department has been subjected to the constant strain of complexity and volume of work caused by a tremendous increase in the number of assessments to be completed, emergence of black money and the thousand ways adopted by the assessees in concealing it, inadequate staff and falling standards of efficiency. In recent years, the Public Accounts Committee of the Parliament has also been expressing concern at the progressive increase in the number of Incometax assessments left uncompleted at the end of every year. The following figures indicate the position of the arrears of Incometax assessments for the years 1959-60 to 1966-67.

TABLE 1

Analysis of arrears of Incometax Assessments

Serial No.	Year	Number of assessments for disposal	Number of assessments disposed of	Percentage of assessments disposed of to assessments for disposal	Number of assessments pending at the end of the year	Percentage of assessments pending to assessments for disposal
1	2	3	4	5	6	7
				%		%
1	1959-60	16,72,001	11,63,224	69·6	5,08,777	30·4
2	1960-61	18,26,012	12,06,895	66·1	6,19,117	33·9
3	1961-62	20,21,330	13,08,923	64·8	7,12,407	35·2
4	1962-63	22,18,376	13,09,717	59·4	9,08,659	40·6
5	1963-64	27,09,107	14,82,701	54·7	12,26,406	45·3
6	1964-65	36,26,144	18,41,629	50·8	17,84,515	49·2
7	1965-66	45,58,556	23,89,027	52·4	21,69,529	47·6
8	1966-67	47,64,597	24,18,066	50·5	23,46,531	49·5

Source—Audit Reports (Civil) on Revenue Receipts 1965, 1966 and 1967 and information furnished by the Central Board of Direct Taxes.

2.2. *Causes of Arrears—*

It will be seen from the Table that though the total number of assessments completed had increased in absolute terms from 11.63 lakhs to 24.18 lakhs in 1966-67, the percentage of disposal had registered a decline from 69.6 per cent in 1959-60 to 50.5 per cent. in 1966-67. The general impression of such a state of affairs is that the Department is "weak and inefficient". However, if one analyses the causes for these arrears and the true nature of the cases that are shown as arrears, one would find—

(a) a sharp rise in the number of tax payers and the assessments to be completed over the past 15 years without corresponding increase in manpower;

(b) growing complexity in the Incometax Act which has been subjected to a spate of annual amendments, thereby keeping both the tax gatherer and tax payer at a loss to know precisely what the legal position is;

(c) introduction of other Direct Taxes Acts, such as, the Estate Duty Act, the Wealth Tax Act, the Gift Tax Act and the Expenditure Tax Act (since repealed);

(d) increase in the frequency and volume of the number of statistical and other reports of miscellaneous character which the I.T.O. has to attend to without adequate assistance;

(e) absence of a system of priorities in the degree of scrutiny in important and unimportant cases; and

(f) frequent changes in jurisdiction, frequent transfers of officers, lack of provision of adequate leave reserve, lack of adequately trained clerical assistance, absence of even ordinary facilities, such as, provision of a full time stenographer for each Incometax Officer, non-supply of essential manuals and books and forms and stationery.

2.3. *Sharp rise in the number of Assessees—*

The phenomenal increase in the number of assessments will be evidenced from the fact that in 1944-45 the year in which the reorganisation of the Incometax Department commenced the total number of assessees was only about 4 lakhs but on 31st March, 1967, it was 27,01,739 excluding salary cases not borne on the General Index Register. If these salary cases are also taken into consideration, the total number of assessees may go up to about 29 lakhs. Thus, from 1944-45, there has been nearly a seven-fold increase in the number of tax payers. The number of officers employed on assessment duty was 744 in 1944-45; in 1966-67, it was 1648. It will be seen that the increase in the assessing officers which is just a little over twice the number in 1944-45, could hardly be expected to cope up with the seven-fold increase in the number of assessees. Though, annually there have been

some additions to the posts of Incometax Officers such additions were far too inadequate to cope with the on-rush of work and this will be evident from the figures given below:—

TABLE 2

Analysis of disposal of Incometax Assessments

Serial No.	Year	Number of assessments for disposal	Number of assessments disposed of	Number of income-tax officers employed on assessments	Average disposal per Incometax officer
1	2	3	4	5	6
1	1959-60	16,72,001	11,63,224	1,238	939
2	1960-61	18,26,012	12,06,895	1,253	963
3	1961-62	20,21,330	13,09,923	1,289	1,008
4	1962-63	22,18,376	13,09,717	1,306	1,003
5	1963-64	27,09,107	14,82,701	1,332	1,113
6	1964-65	36,26,144	18,41,629	1,424	1,293
7	1965-66	45,58,556	23,89,027	1,548	1,543
8	1966-67	47,64,597	24,18,066	1,648	1,467

Source—Information furnished by the Central Board of Direct Taxes.

2.4. It will be noticed from these figures that whereas the number of assessments for disposal had almost trebled during the period 1959-60 to 1966-67, the increase in the number of officers was only 1/3rd of the strength in 1959-60. In 1966-67, if all the assessments for disopsal had to be completed by the end of 1967 with the available strength of officers the average disposal per officer would have to be 2890 per year i.e. about 240 cases per month per Incometax Officer. Assuming the effective working days per month at about 24, it comes to about 10 cases per day which is an impossible task to perform, howsoever, experienced and brilliant an Incometax Officer may be. If driven to complete a quota beyond his capacity, the result would be perfunctory assessments leading to endless litigations, audit criticisms and irritation to assessees. According to the Santhanam Committee, even an average disposal of 1000 cases per year per Incometax Officer was on the high side[1]. The Public Accounts Committee of the Parliament in its 28th Report to the Third Lok Sabha also endorsed the view that the workload of the Incometax Officers was very heavy and

[1] Page 272 of Santhanam Committee's Report on Prevention of Corruption.

this was one of the contributory causes to the number of mistakes committed in assessments. It observed as under:

> "It appears to the Committee that one reason for the magnitude of mistakes committed by the Incometax Officer is the very heavy workload. Considering that there are 13.8 lacs of assessees to be assessed by about 1300 officers (these figures relate to 1963-64), the workload on each officer on an average comes to about 1,000 cases a year which has been considered high by the Santhanam Committee in its Report on Prevention of Corruption."

2.5. The Public Accounts Committee was informed later that to reduce the arrears 300 additional posts of Incometax Officers were sanctioned in April, 1964 which had since been filled up and a further 200 more posts were sanctioned in September, 1965 and were in the process of being filled up. It would appear that these 200 posts were earmarked exclusively for direct recruitment to Class II through the Union Public Service Commission and that the Union Public Service Commission could not finalise the selections owing to stay orders obtained on some writ petitions filed by some of the departmental candidates.

Therefore, the situation today is that inspite of the increase by 300 officers, the position is still far from satisfactory and the remedy appears to be to take one of the two following steps—

(a) double the present strength of assessing officers, with necessary complement of ministerial staff,

or

(b) rationalise the distribution of work on the basis of the existing strength by cutting out useless, infructuous and unproductive work and relieve the Incometax Officer from many of the miscellaneous duties he is called upon to perform.

The first alternative is neither possible nor desirable. To recruit 1,500 officers, give them adequate training and post them to regular charges cannot be done in the course of one or two years. Even providing for an annual intake of 100 officers it will take 15 years to have a further complement of 1500 officers and by that time the number of assessments would far outstrip the number of assessing officers, bringing the problem back where it was. It will also involve the problems of additional accommodation and staff. Therefore, the better course would be to rationalise the procedures relating to completion of assessments and fix proper priorities in regard to—

(a) disposal of existing and arrear cases; and

(b) the extent of scrutiny to be exercised before accepting the returns of income for the various categories of assessees.

2.6. Of the 47.65 lakhs* assessments (including arrears and current) for disposal about 36 lakhs comprise of business cases with incomes of Rs. 5,000 or less, all salary cases, and cases with incomes other than from business or salary. About 6.5 lakhs of assessments relate to business incomes between Rs. 5,000 and Rs. 10,000 (vide Annexure I). Thus out of a total of 47.65 lakhs of assessments 42.34 lakhs are those which can be regarded as cases which are not important from revenue point of view and do not require much scrutiny.

2.7. *Estimate of Revenue in Small Cases—*

For lack of statistical information, it is difficult to precisely estimate the extent of revenue involved in these 42.34 lakhs of cases, but by projecting the figures reported in the All India Statement No. 5 published in the Incometax Revenue Statistics for the year 1963-64 the amount of revenue involved in these cases will not exceed 4 per cent of the total tax assessed in a year. The total tax assessed in the year 1966-67 was Rs. 517.23 crores. 4 per cent of this is Rs. 20 crores. The average expenditure per assessment has been estimated by the Director of Inspection, Incometax (R.S. & P.) at around Rs. 46. At the rate of Rs. 46 per assessment, the total expenditure on 42.34 lakhs cases would come to Rs. 19.50 crores. This would show that the revenue yield from these 42.34 lakhs cases is just about equal to the expenditure incurred in raising it. The Exchequer thus gets no gain by the time and labour and expenditure incurred in scrutinising cases falling in these lower categories. **The first reform which suggests itself to us, therefore, is that the attention now devoted to these cases must be diverted completely to the remaining 5 lakhs cases falling in categories I and II.** To achieve this, several methods have been suggested to us, *viz.*—

(a) the exemption limit may be raised to Rs. 7,500; or

(b) for all small cases, there may be a system of compounded levy which would dispense with the procedures and processes relating to assessments; or

(c) cases upto Rs. 10,000 of returned incomes should be accepted straight-away without scrutiny by the Incometax Officer subject only to a test-check of 2 to 5 per cent.

2.8. *Raising the Exemption Limit—not advisable—*

We examined the pros and cons of all the three suggestions. The first suggestion though attractive as it is, may bring more problems than it solves. Once the exemption limit is raised, most of the assessees who would be having taxable incomes extending upto Rs. 10,000 would refrain from

*It is conventional to begin such analysis with reference to the number of assessees but in real and practical terms, the problem has to be viewed from the point of view of number of assessments.

filing the return taking cover under the higher exemption and the Department would be unable to spot them unless a pervasive and systematic drive of external survey is put in. Secondly, such cases may serve as alibi to bigger assessees who would split their income suitably so as to claim later on that all the incomes earned were below the higher taxable limit. Thirdly, in a democratic set-up, every citizen must have a feeling of having contributed to the Exchequer and particularly in India, a pervasive tax consciousness is necessary in order to build up a healthy attitude against tax evasion.

Having regard to these factors, we feel that it would not be a wise or a right step to raise the exemption limit.

2.9 *Compounded Levy*—

Regarding the second suggestion of having a compounded levy, the broad outline of the scheme is somewhat as follows—

All assessees, it is suggested, having income upto Rs. 10,000 may be broadly classified into three categories:—

(a) those with income upto Rs. 5,000.

(b) those with income between Rs. 5,000 and Rs. 7,500.

(c) those with income between Rs. 7,500 and Rs. 10,000.

Then a compounded fee may be worked out on the basis of the tax on the income returned in first year of their assessment in the case of new assessees and on the basis of the average income during the preceding three years in the case of existing assessees. After determining the category the assessees will be given the option of paying a fixed sum of compounded levy annually to the Incometax Department without the formality of going through the assessment procedure. They will only file a declaration showing the category in which they fall and pay the tax on that basis. They will not then be required to attend the Incometax office for completion of the assessment nor will any demand notice be issued to them. The advantages of the scheme will be as follows—

(a) it will release a large force of the Incometax Officers to tackle the higher income cases;

(b) it will save the Department the heavy expenditure relating to stationery, assessment orders, notices, statistical returns etc.

(c) it will reduce the number of appeals considerably;

(d) it will eliminate inconvenience to a large body of small assessees; and

(e) it will also facilitate collection of tax and thereby reduce the dimension of problem relating to arrear demands.

As against these advantages, the difficulties inherent in such a scheme appear to be—

(a) such a scheme may help in spreading tax evasion because any assessee who gets his tax compounded for a period of three or four years at a low figure, can lend his name for transactions belonging to a bigger assessee;

(b) a compounded levy pre-supposes stabilisation of income over a period of years. It is common knowledge that particularly in business and professional cases the incomes fluctuate widely;

(c) a compounded levy may discourage the assessees from maintaining account books and may place the Department in difficulties later on for verification of transactions, cash credits, acquisition of assets, etc.

(d) if concealment is discovered for a year for which tax has been compounded, the Department would not be able to reopen the assessment for that year; and

(e) the advantages of collection of tax are also not likely to be significant because the tax involved in all these cases is quite nominal and practically there are no arrears in the lower income brackets.

2.10. *Compounded Levy can be considered for small cases with safeguards*—

Balancing both the merits and demerits of the scheme, we consider that it would not be possible to adopt this scheme for all cases upto Rs. 10,000/-. However, we think that no risk will be involved if a beginning is made by confining the compounded levy to the cases of small shopkeepers, hawkers and vendors who undoubtedly make taxable incomes and who are today outside the net of incometax. As most of them are having marginal incomes, there is not much enthusiasm in the Department also to rope them in as assessees. Such cases can usefully be covered by the compounded levy because whatever tax that is brought in, in their cases, would be a net gain to the Exchequer since at present they do not pay tax at all. It may also be mentioned that such petty shopkeepers do not maintain any regular accounts and feel much harassed if they are asked to go through the process of assessment, attend the Incometax office, wait for their assessment, all to end up in the payment of a small tax. All these persons are not tax evaders but persons who find the procedures too complex and too inconvenient and all of them would welcome payment of a compounded levy in the same way as they would pay a licence fee. In their cases, with marginal incomes, the compounded levy scheme can be applied. While applying the scheme, the following safeguards may be provided for—

(a) the compounded levy scheme should be applied only to cases of business and not of profession;

(b) the capital investment in the business should not exceed Rs. 25,000.

(c) the compounded levy once determined should be operative only for a period of three years. At the end of three years, the assessee must file a statement of assets and also a return of income. If on a scrutiny of the return of income and his assets, he is found to be eligible for renewal of the scheme, the scheme can be extended for another three years. He must undertake that if it is found that he has concealed any income for the years for which the tax has been compounded, the concession of the compounded levy will be withdrawn retrospectively and the standard rate of tax charged. A suitable form of declaration can be devised for this purpose.

2.11. *Cases with Incomes below Rs.* 10,000—

The third method viz. getting returns from every one having a taxable income but accepting those returns with incomes of Rs. 10,000 or below on the basis of the figures furnished in those returns subject to a test-check appears to us to be the most convenient and practical method of disposing of these small cases expeditiously. The Direct Taxes Administration Enquiry Committee had made a similar recommendation in 1959, in response to which a beginning had already been made by the Central Board of Direct Taxes. In a latest circular issued by them on 7th October, 1967, the Board specified the priority categories which could be regarded as cases with small incomes—

(1) cases with returned income of Rs. 7,500 or below;

(2) all Government salary cases;

(3) all non-Government salary cases with incomes below Rs. 18,000; and

(4) partners' cases where the total income returned is less than Rs. 7,500.

These cases are again divided into two categories—

(a) where returns have been received; and

(b) where returns have not been received.

In regard to these cases, the instructions are as follows:

Where returns have been received, the Incometax Officers, according to the instructions, should accept income declared in the return under Section 143(1) of the Incometax Act after making obvious adjustments for the inadmissible items of expenditure claimed by the assessee or any other adjustments which may be considered necessary. The assessments will be made on the basis of the statements of account accompanying the return. If the income returned by the assessee includes share income from a firm registered for incometax purposes and the total income returned by him is less than Rs. 7,500, the return shall be accepted notwithstanding the fact that the assessment of the firm has not been completed. In such a

case, the assessment will be revised after the assessment of the firm is completed on the basis of the correct income where necessary. No revision of such assessments will take place if the additional demand works out to Rs. 10 or less. As regards cases where returns have not been received, the assessments will be made ex-parte on the basis of the immediate past records for a period not exceeding three years prior to the assessment and no penalty action should be taken for non-submission of return. After the completion of assessments on this basis, Incometax Officer should make a sample check of 2 per cent of the assessments and if he finds that in any case income has been under-stated, appropriate penalty proceedings should be taken.

2.12. *Board's Scheme for Disposal of Small Income Examined—*

The scheme is a welcome break from the traditional procedure adopted hitherto and is bound to help in clearing off the bulk of the small income arrear cases. However, the scheme is only a temporary measure with a view to clearing off the arrears by 31-3-69 and limited to cases with Rs. 7,500 or less. Further, the provision to make ex-parte assessments is likely to be abused by many assessees who may withhold submitting their returns if their incomes are much higher than the average of the past three years and the Department may have no material to proceed against such assessees if they fail to furnish returns in subsequent years also, since they have obtained an immunity even in regard to penalty.

2.13. *Suggestion for a Special Procedure to dispose of cases with incomes not exceeding Rs.* 10,000—

Having regard to these we consider that the scheme for disposal of small income cases should be based on the following considerations—

(i) In the first place, we consider that having a limit of Rs. 7,500/- for small income cases is outmoded and it should be raised at least to Rs. 10,000/- having regard to the fall in the value of money and the continuous inflation in the economy we have been having for the past two decades. This concept of having a limit of Rs. 7,500/- for small income cases appears to have been adopted from the Report of the Incometax Investigation Commission who classified the total arrears of cases into two broad categories—(i) those with incomes upto and inclusive of Rs. 7,500/-. and (ii) those with incomes above Rs. 7,500/-. That classification was all right at a time when the total number of assessees in India was about 4.23 lakhs and assessees with incomes of Rs. 7,500/- formed only 1.03 lakhs. **In the context of the present day trends, Rs. 7,500 cannot be regarded by any means as the limit of small income and that the limit should at least be raised to Rs. 10,000. This scheme should be extended to persons whose assessed income during the past three years was Rs. 10,000 or less and should also be extended to new assessees with incomes of Rs. 10.000**

or less arising from salary, interest on securities dividends, income from property or other sources.

(ii) In the case of new assessees having income from business or profession, the scheme will apply only to those cases where the capital employed in the business is Rs. 50,000 or less.

(iii) All these persons must file a simplified form of return to be printed in a separate colour so as to identify such cases easily. A specimen form of the return is annexed (Annexure 2).

(iv) As soon as the returns are received, the small income returns should be handled by a separate cell in the assessment branch of the Incometax Office and those returns which are from new assessees with income from property or business or securities or shares, should be separated from the rest of the returns and a letter should be immediately issued under the signature of the Inspector for eliciting the source of the investment. All the other cases should be checked by the assistants and the Group leader of the cell, for arithmetical accuracy and the correctness of the deductions claimed having regard to the provisions of the Act laying down the limitations therefor. If the tax paid by the assessee is correct on the basis of the figures contained in the return, the return should be filed immediately accepting it under section 143(1). No notice of demand is necessary in such cases. The fact of the acceptance of the return may be intimated through a printed postcard as in Annexure 3.

In the cases of new assessees with income from investment or business, on receipt of their reply to the letter calling for the source of investment the files should be put up to the Incometax Officer for his orders regarding the acceptance of the explanation about the source of investment. If the explanation given is *prima facie* acceptable or susceptible of a cross verification, such as, a gift from another assessee who has paid gift tax thereon or a partition of a family which is assessed to incometax or a dissolution of partnership which is assessable to incometax or on liquidation of a company which is assessable to incometax, the explanation should be accepted and the assessment completed straightaway under section 143(1). Such an acceptance would be within the ambit of section 143(1) of the Incometax Act, because the information called for merely relates to the source of investment and it is not called for in evidence of the income that is returned. If the explanation given is not susceptible of verification, without calling upon the assessee to produce further proof, the Incometax Officer should issue notice under section 142(1) and complete the assessment thereafter under section 143(3). The scheme will not apply to—(a) cases of loss, (b) cases of companies and (c) cases of non-residents.

All the returns received under the scheme should be entered datewise in a Register and the Inspecting Assistant Commissioner should lay down a small percentage—which must vary from year to year and which should

be kept a secret—for a detailed scrutiny of the returns accepted under the scheme every year. In selecting the cases, the Inspecting Assistant Commissioner should adopt the random sampling method, varying it from year to year. The detailed scrutiny must be done by the Incometax Officer who for this purpose will call upon the assessees to produce their books of account and other documents in support of the return. The scrutiny of the books of account should be on broad lines and if the variation between the tax on the income as determined on the basis of the books produced and the tax on the income as returned does not exceed Rs. 50, no action should be taken to revise the assessment. If there has been any deliberate concealment of any item of income or if it is found that the assessee is acting as a *benamidar* for some other assessee, the Department should not hesitate to even launch a prosecution against the assessee so as to make it known that the scheme will be applicable only to bonafide small income cases and not to bogus cases.

Where the returns of income have not been received by the due date, the Incometax Officer should issue a notice under Section 142(1) and for this purpose, section 142 has to be amended providing for issue of such a notice where section 139(2) notice has not been issued, calling for a statement of account of the income of the assessee for the year. If there is a compliance with this notice, the statement so received shall be deemed to be a return for the purpose of the Incometax Act and assessment completed accordingly in the same manner as in the case where a regular return has been received.

2.14. *Cases with incomes between Rs.* 10,000 *and Rs.* 50,000—

The next bloc of cases which requires a different kind of scrutiny is that which relates to incomes between Rs. 10,000 and Rs. 50,000. This bloc accounts for roughly about 24 per cent of the total revenues i.e. about Rs. 124 crores of rupees. It is in the area of this category of cases that one finds beginnings of attempts at tax avoidance and tax evasion. This is particularly pronounced in cases of incomes above Rs. 30,000 where the rate of incometax rises sharply from 40 per cent to 50 per cent. Therefore, a more intensive scrutiny is necessary while assessing these cases. The lines of scrutiny to be adopted are indicated below—

(a) **A separate form of return must be prescribed—the form being in a colour different from that of small income cases.** This return should provide for separate annexures for each head of income, requiring the assessee to set out details of the income and the deductions for each of these heads.

(b) **On receipt of the returns, they should go to a separate cell in Assessment Branch for scrutiny regarding compliance with the requirements relating to the completion of the return. If any particular item in an annexure has not been filled in and if the annexure required to be filled**

in to support the income returned in the main body of the return has not been put in and if the statement on the basis of which the return has been filled is not given, the deficiency should be immediately pointed out through I.T. 105 asking for compliance within a week from the receipt of the notice. When compliance has been received, the return should be classified into (i) those prepared by the assessees and (ii) those prepared by authorised representatives.

(c) All the returns prepared by the authorised representatives should be put up to the Inspector posted to the Assessment Branch for scrutiny whether the provisions of Rule 12A of the Incometax Rule have been complied with and, if so, whether the report given by the authorised representative is adequate for accepting the return. If so, he should put up such cases with his remarks to the Incometax Officer for acceptance of the return under section 143(1). If the report given by the authorised representative is inadequate or fails to explain the computation of income correctly, the case may be posted for hearing by the Incometax Officer by issuing a combined notice under section 142(1) and 143(2)—a specimen of which is given in Annexure 4—specifying the particulars in regard to which further information or proof is felt necessary.

(d) All other returns falling within this category will be divided into two categories:

(i) those of new assessees; and

(ii) those of existing assessees. In the case of new assessees, the cases must be posted invariably for calling for accounts—examination prior to the assessment. This will be done through the combined notice suggested above.

In the case of the existing assessees, if the past record of the assessee is good, that is, if during the past three years, the assessee has not been penalised for concealment and his returns have been accepted subject to routine inadmissibles and there is no information pending verification on the file, all such cases should be grouped together and 25 per cent of such cases should be taken out for complete test-audit and the rest of the returns in that group should be accepted under section 143(1).

2.15. *Points to be looked into—*

While scrutinising these 25 per cent cases, the minimum programme of scrutiny should include the following points—

(i) to reconcile the income declared with the wealth in the beginning and at the end of the previous year, the expenditure incurred during the year and the gifts made during the year;

(ii) to look into the squared up accounts and any fresh cash credits; and

(iii) to get a quantitative reconciliation of the goods dealt in and the valuation adopted for the opening and the closing stock.

We have suggested in the Chapter on Tax Evasion that every assessee should be required to append a certificate on the last page of the account book that no transactions have been kept outside the books and that the books represent a complete and correct record of all the cash and credit transactions of the assessee. If such a certificate is given, the Incometax Officer must, after a quick test-check on the above lines, accept the return of income. It is not necessary for him to verify the accuracy o the certificate unless there is information already on record requiring verification. Otherwise, the books of account along with that certificate should be accepted for the purposes of assessment and, if subsequently, it is proved that the assessee had appended a false certificate, he could be straightway prosecuted. In those cases where accounts are not maintained the assessee should file a declaration in the following form along with the return.

"I certify under penalty for perjury that I have not maintained any books of account in respect of the sources of the income declared in this return and that the income declared is correct and complete to the best of my knowledge and belief".

In cases where the Incometax Officer finds that the books of account are not reliable and proposes to apply section 145(2), he should do so after giving an opportunity to the assessee to show cause why section 145(2) should not be resorted to and then specifically mention that fact in the assessment order. We make this suggestion because many of the Chambers of Commerce who sent their Memoranda to us and many of the Chartered Accountants who met us, complained to us that the application of section 145(2) was left largely to be inferred at the time of the appeal when the Incometax Officer took the defence that he resorted to that section, though at the time he made the assessment, this section was never in his mind. In fact, this has led some of the witnesses to plead that section 145(2) should be deleted from the Incometax Act as an instrument of oppression. We consider that the remedy is not to delete the section but to streamline the procedure relating to its application. We, therefore, suggest that where the accounts are found unreliable and resort to section 145(2) is had, a specific finding in this regard must be given by the Incometax Officer.

2.16. *Cases above Rs.* 50,000—

The third category which, in our view, is the most important from the revenue point of view and which requires detailed cent per cent scrutiny, are cases with incomes above Rs. 50,000. In those cases, the returns of income should be same as prescribed for the cases between Rs. 10,000 and Rs. 50,000. Each one of such returns should be accompanied by a report of the Chartered Accountant giving briefly—

(a) the assessment history of the case;

(b) the nature of the business;

(c) the books of account maintained;

(d) the documents sent along with the return of income;

(e) the number of bank accounts maintained;

(f) a brief explanation of the various loans and overdrafts appearing in the Balance-sheet;

(g) a brief explanation of the entries in the capital accounts;

(h) the basis of cost allocation; and

(i) details, where necessary, of amounts in the P&L Account, such as, interest payment, repairs, travelling expenses, legal expenses, entertainment expenses etc.

2.17. The Chartered Accountant should also set out the items he had scrutinised so that the Incometax Officer need not waste his time in investigating the same area.

2.18. *Compulsory Audit of cases above Rs.* 50,000—

Provision of such a note by a Chartered Accountant pre-supposes that every return exceeding Rs. 50,000 should be prepared by a Chartered Accountant and that accounts of such cases should be compulsorily audited by him.

2.19. The Direct Taxes Administration Enquiry Committee felt that all cases above Rs. 50,000 should be compulsorily audited in the same manner as the accounts of companies are audited under section 227 of the Companies Act. *The reasons of compulsory audit as listed by that Committee (a decade back when that Committee made a report) are no less compelling today. They are—

(1) It would act as a deterrent to evasion.

(2) Audit of business accounts facilitates the assessing officer's work and would expedite disposal because he would be freed from checking arithmetical calculations.

(3) The Auditor himself would have an opportunity of checking whether the items of receipts and expenditure are duly and properly vouched.

(4) The Incometax Officer in the case of audited accounts could concentrate only on the broader aspects of the determination of the Incometax and wealth-tax liability.

(5) It will make for better relations between the Department and the assessee and also enable the Department to have the advantage of the services of Chartered Accountants in the common task of determining tax liability.

2.20. The Incometax Investigation Commission also expressed itself in favour of compulsory audit in large income cases *vide* paragraph 205 of the Incometax Investigation Commission's Report.

*Para 7·37, page 158 of the Report of the Direct Taxes Administration Enquiry Committee.

2.21. One of the objections to compulsory audit raised before the Direct Taxes Administration Enquiry Committee was that the number of Chartered Accountants in India was not adequate to permit introduction of compulsory audit in regard to cases above Rs. 50,000 but today the number of practising Chartered Accountants is nearly 5,000 and with fresh candidates passing every year, the position will be much easier in future. In fact, compulsory audit might encourage younger Chartered Accountants to take to tax practice and it will equally be helpful to the tax payers and the Department. We would, therefore, strongly recommend that cases with income over Rs. 50,000 must be compulsorily audited by Chartered Accountants.

2.22. *Scrutiny in cases where certificates of Chartered Accountants are given—*

After the receipt of the return, the Inspector or the Incometax Officer should scrutinise the return with reference to the earlier years' records and first prepare the broad points on which further examination would be necessary. The cases would then be put for hearing and as far as possible, a full and comprehensive examination to the extent necessary should be completed within the first two or three hearings. If on such examination, the Incometax Officer finds that the case is one in which a detailed probe would be necessary because of suspicion of tax evasion and concealment, he should immediately move the Commissioner of Incometax to transfer the file to the Central Commissioner of Incometax having the jurisdiction over the area.

In regard to all the other cases, efforts should be made, as far as possible, to have agreed assessments by discussion with the assessees' representatives and the Incometax Officer. If on any particular point agreement is not reached between the two, the assessees' representatives should then be asked to meet the Inspecting Assistant Commissioner who may hold a tripartite discussion with the Incometax Officer and the assessee's representative. We find that this system is now satisfactorily working in some of the Central Circle charges and also in Group charges. There is no reason why this should not be adopted as a rule in all cases of income over Rs. 50,000 and involving disputed items.

To enable the Inspecting Assistant Commissioner to participate in such discussions and give directions regarding determination of income, we suggest that in all cases where income returned is Rs. 50,000 or more, concurrent assessment jurisdiction may be vested in the Inspecting Assistant Commissioner also.

2.23. *Assessment by Inspecting Assistant Commissioner—*

The cases which involve complicated legal points or wide ramifications should be dealt with by the Inspecting Assistant Commissioner himself who would pass assessment orders and appeals against such

assessment would lie to the Commissioner of Incometax. Provisions already exist in Section 125 of the Incometax Act to enable adoption of this procedure. The Inspecting Assistant Commissioners are not at present making assessments themselves although the Act provides such functions for them. We find that with the gradual expansion of the Department the senior officers have all been promoted as Assistant Commissioners and the Incometax Officers in the field do not have sufficient experience and breadth of vision necessary for handling important cases. **It is, therefore, necessary that increasing use should be made of the services of the Inspecting Assistant Commissioner for making assessments in big cases.**

2.24. The steps detailed by us above for the broad categorisation of all existing assessees and application of different degrees and extent of scrutiny depending upon the importance of the cases would enable the Department, in our view, to clear all arrears and at the same time concentrate its attention on revenue yielding cases. In our view, the effective number of revenue yielding assessments with which the Department should be really concerned does not exceed 5 lakhs today and if of the present strength of 1,700 officers, 200 officers are taken off to attend to the disposal of small income cases in the manner set out above, about 1,500 officers can be fully employed on these 5 lakhs cases and the average number of cases to be disposed of by an officer would come to less than 400. There would, thus, be no need at all to incur further cost of expanding the Department at the assessment level.

2.25. Many of the Incometax Officers represented to us that one of the prime causes for delay in assessments was the frequent adjournments asked for by the assessees' representatives, with the result that they were unable to stick to their plan of disposals. This was also the reason why they were compelled to post twice the number of cases they would be able to dispose in a day, so that even if in 50 per cent of the cases adjournments are asked for, they would be able to attend to the rest of the cases posted for the day.

When we met some of the Chartered Accountants and other representatives, they countered this by saying that it was the Incometax Officer who was generally unprepared with the case and even though the representatives were ready with all the points, the first hearing was confined to getting a broad picture of the past assessment history of the case which the Incometax Officer could have very well obtained by a prior study of the records. Their general complaint was that by such haphazard postings of the cases and general unpreparedness at the time of the hearing, their plan of the work got upset and that there should be a limitation to the number of times account books were called for and examined. In this connection, a suggestion was made to us that a provision should be made in the Incometax Act on the lines of section 7605(b) of the Internal Revenue

Code of 1954 of the United States of America, reproduced below, which limits the number of times the account books could be called for and examined—

> "(b) *Restrictions on Examination of Taxpayers*—No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Secretary or his delegate, after investigation, notifies the taxpayer in writing that an additional inspection is necessary."

2.26. *Proceedings for salary cases—*

For salary cases, the receipt of the return need not be awaited for completion of assessment. Under section 206 of the Incometax Act, the employers should file a consolidated list showing the details of salaries paid and tax deducted in the case of every employee under them. This consolidated statement is due to be received in the Incometax Office before the 30th of April, every year. During the months of May and June, these returns should be scrutinised and if the tax deducted at source is correct on the basis of the information furnished in the various columns in the return, the assessment should be deemed to have been completed on such scrutiny. It may, however, happen that in several cases the employees may have paid by way of deduction at source more than what is due from him and in other cases the employee may have source of income other than salary in which case further tax would be payable by him.

In the first type of cases, the excess deduction would occur mainly because the employer would not take into account, for purposes of working out the tax to be deducted at source, items such as, entertainment expenditure admissible, maintenance of motor car, purchase of books and any other expenditure incurred wholly, exclusively and necessarily for the purpose of the employment. The present practice is that only Life Insurance premia and provident fund payments are given credit to when working out the tax deductible at source. This results in the employee having to make a return of income for getting his total income assessed properly and waiting at the Incometax Officer's doors for the refund of the tax excess paid. Such cases involve infructuous work of the Department and at the same time inconvenience to such assessees.

We, therefore, suggest that it should be prescribed in the rules that the employers should also take into account all the expenditure admissible under section 16 of the Incometax Act while calculating the tax to be deducted at source. This would obviate the necessity of deducting a higher tax and making a refund later.

As regards cases where an employee has other sources of income than salary, we suggest that in such cases a declaration should be obtained by

the employer from the employee regarding the income derived from sources other than salary with particulars of such income. The employer should take that income into account for purposes of calculating the rate of tax applicable on the salary income and show in a separate column to be provided for, in Form No. 24, such income which has been taken into account for purposes of working out the rate. While scrutinising the statement in Form No. 24, the Assistant in the Assessment Cell to which this task is entrusted, will take out an extract of such cases and then watch the receipt of the returns for assessment. If no returns are received, after the expiry of the due date, an exparte assessment may be made if such incomes were assessed in earlier years also and no wide fluctuations have been shown in Form No. 24. Where a fresh source is shown, in such cases, a notice under section 139(2) may be issued and assessment completed after enquiry.

2.27. *Case study to find out pattern of adjournments—*

As each side held strongly that the other was responsible for the delays caused by adjournments, we conducted a case study on the random sampling basis in Company, Business, Salary and Central Circles in five different charges, viz., Bombay, Delhi, Patiala, Madras and Kerala. The result of the study is tabulated in Annexure 5. It will be seen therefrom that the total number of adjournments granted by the Incometax Officer on his own i.e. without request from the assessee is much higher than the total number of adjournments asked for by the assessees in all these charges. Of the several categories of Circles stated by us, in business cases the adjournments granted by the Incometax Officers against the adjournments asked for by the assessees have been the highest. In Company Circles, the highest number of adjournments granted by the Incometax Officers relates to Bombay charge where the total number of adjournments granted by the Incometax Officers in 90 cases selected by us was 147 and the total number of adjournments sought for by the assessees was only 25. When projecting the picture on all-India scale, the total number of adjournments granted by the Incometax Officers on their own and the total number of adjournments sought for by the assessees works out as under—

TABLE 3

No. of cases studied	Total No. of adjournments granted by the Incometax Officer	No. of adjournments granted by the Incometax Officer per case	Total No. of adjournments sought by the assessee	Average of adjournments by the assessee per case
1130	1074	0·95	361	0·32

2.28. *Reasons for frequent adjournments by Incometax Officers—*

It is, therefore, clear that there is a good deal of justification for the complaints made by Chartered Accountants and other assessees' representatives that one contributory cause for the delay in disposal is the number of times the cases are adjourned and accounts called for by the Incometax Officers. In the absence of details of notes of examination in many of the files we had studied, it is not possible for us to gather the reasons for adjourning the cases by the Incometax Officers. One might be able to justify to a certain extent examination of accounts being conducted from day to day where detailed investigations are found necessary, but in many of the files we have studied, we found that cases involved simple traders accounts, and the cases were being adjourned from time to time, finally to accept the return of income with routine inadmissibles. The reasons for frequent adjournments by the Incometax Officers appear to us to be—

(a) posting more cases than could be disposed of by examination on a single day.

(b) lack of prior study and scrutiny of the return and the assessment records.

(c) non-furnishing of explanatory material in support of the return of income by the assessee or his representatives.

(d) absence of complete records relating to the past assessments on the date the case is posted for hearing.

In almost all the cases we have studied the first notice for hearing under section 143(2) is put up by the U.D.C. in charge of the assessment file giving both the date and the time. Though the time is staggered giving about half an hour per case, the total number of cases posted for a single day roughly comes to 10 to 15 cases in the average business circle. Naturally, when all the assessees turn up on that particular day, the Incometax Officer is unable to cope with the work on hand and has to adjourn some cases.

Secondly, part-heard cases have also to be posted often to suit the convenience of the Chartered Accountants and the assessees. When these cases come up, the regular cases posted for the day have to be adjourned. One cannot avoid part-heard cases coming in between the regular cases but one can avoid the overcrowding of cases and consequent adjournment by the I.T.O. himself making a preliminary study of the return with a view to finding out whether the cases should be posted for hearing or whether the hearing could be avoided by getting a clarification through post or whether the return could be accepted straightaway. **In order to enforce this effectively, the Incometax Officer should prepare a weekly or fortnightly list of the cases selected by him for hearing and then send it to the Section for issue of notices by the Upper Division Clerk. The weekly or fortnightly list prepared must be exhibited on the Notice Board as**

a cause list. This will also enable the assessees' representatives to know beforehand which of their cases have been posted for hearing and on what dates. We understand that under the functional scheme of distribution of work the notices for hearing are to be issued by the Administrative Incometax Officer. **Here also it is very important that the Administrative I.T.O. does not issue notices without getting the weekly list from the Assessment Branch and for this purpose all the cases in which the returns have been received should be sent to the Assessment Branch to be dealt with in the various cells as indicated in the foregoing paras of this Chapter.**

2.29. Our study has revealed that the issue of section 143(2) notice and in some cases 142(1) notice has been resorted to as a routine measure without studying the records and finding out whether a hearing is at all necessary. In big cases, where returns are accompanied by a number of statements, the Incometax Officers do not record the points on which clarifications are to be sought for from the assessees prior to the posting of the cases. A senior and a respected Chartered Accountant told us that in most cases at the time of the first hearing the Incometax Officer merely starts reading the file in the presence of the assessee or his representative and puts some general queries on the basis of assessment orders of earlier years and adjourns the case when he comes up against a little difficulty, which, had he studied the record earlier, would not have been felt by him. **We cannot over-emphasise the need for prior study of record before it is decided to issue a notice under section 143(2) and when the notice is issued, before the hearing actually takes place. This will not only expedite scrutiny of accounts but it will also inspire respect in the minds of the assessee or his representatives for the officer in particular and the Department as a whole.**

2.30. On many occasions, the reasons for adjourning the case by the I.T.O. is attributable to the absence of material particulars relating to the return of income. For example, in the case of income arising from business or profession, a copy of the manufacturing account, the trading account and the Profit and Loss Account along with the balance-sheet should be filed with the return of income. In most cases when the returns are rushed through, to avoid payment of interest under section 139 these statements are prepared subsequently and sent only when the case is posted for hearing. Even where the statements are sent along with the returns of income, neither the assessee nor his representative explains the source of any new investment or wide fluctuations in the results disclosed. When the case is posted for hearing to ascertain these reasons, the assessee or his representative does not come completely prepared and hence the case has to be adjourned. In several cases, the information asked for by the Incometax Officer at the time of hearing is sent piece-meal with the result that the completion of the assessment is prolonged unnecessarily.

The remedy for this is that as soon as the return is received disclosing income from business or profession, it should be scrutinised to see whether the statements required to be sent along with it are there. If those statements are missing, the return should be sent back to the assessee along with the IT-105 stating that the return is invalid without the accompanying statements and that it should be re-submitted with the necessary statements. Secondly, where the I.T.O. wants to have a clarification on any particular point, such as, fall in gross profit, poor out-turn, sudden fluctuations in stock, doubtful items in sundry debtors or new credits, he should list these points in a sheet annexed to the notice under section 143(2) calling upon the assessee or his representative to come prepared with the information required on these points.

2.31. *Records held up with higher authorities—*

In several instances, we found that the cases had to be adjourned because the prior records were not available on the day of the hearing. The reasons for non-availability of the records are many—the records may have been called for by the Appellate Assistant Commissioner to dispose of a pending appeal or it may have gone to the CIT's office in connection with a revision application or it may have gone up to the Appellate Tribunal or it may have gone up to the Inspecting Assistant Commissioner for examination of any particular point or it may have been locked up with the external or internal audit parties.

We understand that unless an Incometax Officer has intimated his desire to be heard in response to the notice issued in form I.T. 59 from the Appellate Asstt. Commissioner's office, the date of the hearing of case by the Appellate Assistant Commissioner is not known to the Incometax Officer. It is only a day or two prior to the date of hearing that a demand comes from the Appellate Assistant Commissioner's office for records. Thus, naturally the Incometax Officer cannot anticipate the non-availability of records by being called for by the Appellate Assistant Commissioner at the time he posts the case for hearing. In order to obviate this difficulty, **we suggest that the Appellate Assistant Commissioners should send a fortnightly list of cases posted by them for hearing to the Incometax Officers concerned, so that they may refrain from posting the cases for examination on those dates.**

So far as the records required by the Commissioner or the Appellate Tribunal are concerned, they are far and few and not much dislocation has occurred in regard to the I.T.Os. programme of work. In regard to audit, the statutory audit parties give a month's notice of the cases required by them for audit and since the audit parties have the custody of the files only for a week or about 10 days, this also cannot be said to be a hindrance in posting of cases and their disposals.

2.32. *Need for better arrangement for custody of records—*

Apart from this, in many cases, arrangement for custody of records is so poor that the clerk concerned is not able to trace the old files and put

them up at the time of hearing. **The remedy, that lies here is in providing for adequate arrangements for methodical and systematic filing of case files with a clear and correct record of movement of such files under the overall supervision of a Record Supervisor.** It is hoped that with the introduction of the functional scheme and provision of a separate record room, the situation will improve. **A physical inventory of the records with reference to the Index Register should be taken every six months and a certificate should be given by the Record Supervisor to the Incometax Officer that no case in the Index Register is missing and no folder in any of the assessment records is missing. Where there are confidential folders in any assessment records, they should be separately taken out and kept with the Incometax Officer with a note to this effect in the miscellaneous record. For this purpose, the Government should make arrangements for adequate steel cupboards and steel racks and any expenditure incurred in this connection should be regarded as a necessary expenditure because the preservation of the assessee's files is the first requisite for achieving efficiency in a Revenue Department.**

2.33. *Other factors impeding speedy disposal and suggestion to tackle them—*

Other factors which impede speedy disposal of assessments and the steps necessary to remove some impediments are discussed in the following paragraphs.

2.34. *Provisions of S.* 139 *to be amended to prescribe* 30*th June for all cases except companies and modification of S.* 139(8)—

Assessments can be posted for hearing only after the returns are received. Under section 139(1) of the Incometax Act, 1961 it has been statutorily provided that all assessees other than those having income from business or profession should file their returns by the 30th June of the assessment year and in the case of assessees having income from business or profession, the returns should be filed on the 30th June or on the expiry of six months from the date of the end of the previous year whichever is later. In certain cases the due date prescribed is 31st of December. Failure to file the return will entail payment of penal interest at the rate of 9 per cent p.a. The rate of 9 per cent was fixed only recently under the provisions of Taxation Laws (Amendment) Act of 1967. Prior to that, the rate was only 6 per cent. This interest is chargeable only with effect from 1st of October in those cases of default where the prescribed due date is 30th June, and from 1st of January where extension of time is given upto 31st December. Under section 140-A of the Incometax Act, every assessee has to pay tax within 30 days of the filing of the return if the tax payable by him on the basis of the return exceeds Rs. 500. Because of this liability to pay tax, most of the assessees have been asking for time for furnishing returns till 30th of September or 31st of December as a routine measure and in many cases even after these dates because the interest payable by them on the tax consequently withheld, is less than the interest gained by them by utilising the

money in their business. Further, under section 139(8), the Incometax Officer has been given power to waive or reduce the interest payable on delayed returns. Under a recent Supreme Court ruling, even in cases where the Incometax Officer fails to levy interest, may be by oversight, the legal inference is that he has considered the matter and waived the levy of interest so that action to demand interest by a rectification order under section 154 does not lie. The result is that:

(a) in spite of the statutory time limit for filing of the returns, the assessees in majority of cases, particularly in high income cases, do not submit the returns on the due dates and apply for adjournments in a routine manner;

(b) the petitions for adjournments in form 6 flood the Incometax Department in the last week of June and in many cases last week of September. It is in the month of June that the officers and the staff generally take leave and these petitions remain unattended to so that the assessees do not get intimation whether the extension of time applied for by them has been granted or not. Where intimations are not sent, the assessees have a right to argue that the extensions have been granted automatically; and

(c) the penal interest clause is rarely applied, particularly after the introduction of section 139(8).

Having regard to these, we recommend that section 139 should be amended to provide that returns in all cases should be filed by the 30th June of the assessment year. The alternative given viz. six months after the end of the previous year should be removed. In the case of companies it may be provided that the 30th September should be the last date.

Interest should be charged from the expiry of the due date even where permission is given for filing returns after this date, and the interest should be 12 per cent and not 9 per cent. Where the Incometax Officer waives or reduces interest under section 139(8), a specific note to this effect should be made and for this purpose we would suggest amending S. 139(8) for inserting the words "for reasons recorded in writing" after the words "reduce or waive".

2.35. Under section 153 of the Incometax Act, the limit for completing an assessment is four years from the end of the assessment year. Because of the availability of four years to complete an assessment, a tendency has developed on the parts of many Incometax Officers to postpone assessment particularly in revenue yielding and other complicated cases till the time-bar date is reached and then complete the assessment hurriedly by the end of the fourth year by making *ad-hoc* additions in the hope that if the assessee appeals, the assessment would get set-aside, so that the Incometax Officer would get an unlimited lease of time to complete the assessment afresh. Our study has revealed that in most of the Central Circles and in many of the business circles a good portion of the assessments completed is unjustifiably dragged on till the end of the four-year time limit.

2.36. All the non-official witnesses who wrote to us and appeared before us have strongly represented against this tendency among the Incometax Officers and have requested us to consider whether this time limit should not be reduced to two years. Such a reduction, they argue, will be beneficial both to the Department and to the assessee, by reducing the arrears in the case of the former and minimising the harassment in the case of the latter. The time limit of four years was introduced by the Indian Income Tax Amendment Act, 1939, on the recommendation of the Incometax Enquiry Committee, which felt that the powers vested in the Incometax Officers were insufficient to deal with a dishonest assessee. After 1939, and particularly after the consideration of the recommendations of the Incometax Investigation Commission, Taxation Enquiry Commission and the Direct Taxes Administration Enquiry Committee, a vast array of powers has been given to the Incometax Officers including power to search and seize, power to reopen assessments upto 16 years, where big concealments are involved, calling for returns of total wealth and calling for diverse information under the provisions of Sections 133, 133A, 134, 142 and 143. Further, the Incometax Department has developed to a good degree, skill and expertise in tracking concealments and has also set up agencies like Directorate of Intelligence and Investigation for this purpose. Therefore, it does not appear to be necessary any longer to hang on for a period of four years for completing the assessment in the original proceedings. We have already recommened in the Chapter V relating to tax evasion that where the preliminary scrutiny reveals that the case is one to be investigated thoroughly by the Central Charge, it should be transferred there. All such cases will normally be covered by section 153(b) and therefore the eight-year time limit for completion of assessment will be available to those cases. In the rest of the cases i.e. in the cases of normal assessments, the Incometax Officer should not require more than two years to complete the assessment. However, we do not recommend a reduction from four to two years immediately as that would dislocate the work in many of the arrear cases but **we suggest that the time limit may first be reduced to three years and after a couple of years, it may be reduced to two years. Section 153(1)(a) should be amended accordingly.**

2.37. *Practice of sending return forms to assessees to stop*—

Under the Incometax Act, 1961, all assessees have to file their returns of income voluntarily under section 139(1). There is, however, a provision under section 139(2) which authorises the Incometax Officer to issue notice to any person who in the Incometax Officer's opinion is assessable under the Act, requiring him to furnish within 30 days from the date of notice, the return of income. The real purpose of this provision is to enable the Incometax Officer to compel those persons who have not complied with the provisions of section 139(1) to make the return of income. By issuing such a notice to assessee, the Incometax Officer gets powers to make a best judgment assessment under section 144 with consequential penal action. Thus,

the main purpose of this section is limited. However, pursuant to an assurance given by the Finance Minister to the Lok Sabha at the time the 1961 act was passed, the Department continues the practice of sending the forms of returns of income to all the existing assessees. The result is that—

(a) if the Department is unable to supply the form in time, either on account of inadequacy of staff or non-receipt of printed forms, the assessees get an automatic extension of time, and

(b) even in small cases, assessments had to be kept pending till returns are received.

2.38. The practice of sending returns to assessees was adopted at a time (in 1939) when the provisions of voluntary submission of returns were newly introduced and till the assessees became familiar with these provisions, it was necessary to help them by sending forms of returns of income for being filled up. It is now three decades since the practice started and every assessee is now aware of his primary obligation in the matter of filing the returns. If it is intended to remind assessees of this annual obligation, the proper way would be to advertise through the local press, cinema slides, over the All India Radio and the Television about the due date of filing the return, explaining to them the consequences of failure to observe these provisions. **We, therefore, suggest that the practice of sending Incometax return forms to the assessees should be stopped and the assessees must be left to file their returns on their own, on the due date. In order to enable ITOs to complete assessments exparte in cases where voluntary returns are not received in the case of existing assessees, Section 144 should be suitably amended to provide for exparte assessments even for failure to file returns voluntarily and thereby committing defaults in complying with the provisions of Section 139(1).**

2.39. *Section* 143(1) *to be amended to enable ITO to accept returns after making routine inadmissibles*—

Another cause for delay in completing the assessment is the necessity to issue notices under Section 143(2) to the assessees even in cases where small inadmissibles have to be added back, because under the provisions of Section 143(1), the returns can be accepted only if they are correct and complete in all respects. **In order to enable the Incometax Officer to complete assessments by adding back routine inadmissibles, Section 143(1) should be amended suitably, so as to enable the Incometax Officers to accept all such returns without the need to post the case for a hearing.**

2.40. *Time limit to be prescribed for reassessments under Section* 146 *and pursuant to appellate decisions*—

Under the provisions of the law [Section 153(3)], no time limit is prescribed for completing an assessment reopened under section 146 or to give effect to directions by appellate authorities under sections 250, 254, 260, 262, 263 or 264. It has been represented to us that, in the absence of a statutory

time limit, the Incometax Officers do not feel compelled to complete these proceedings, the result being an increase in the pendency of such cases. **There is a good deal of force in this contention and we accordingly recommend that a suitable time limit, not exceeding two years should be laid down in the Act, preferably one year in the cases covered by section 153(3) (i) and (ii).**

2.41. *Simplification of registration procedure for firms—*

In cases of firms which apply for registrations for the first time, the assessments get delayed till the Incometax Officer completes his investigation about the genuineness of the firm and about the compliance of the procedural and legal requirements relating to registration. The registration proceedings are treated as separate proceedings from assessment proceedings and till the registration proceedings are completed, the assessment proceedings are not taken up by the Incometax Officer. We have recommended in Chapter V that all firms constituted under a deed of partnership and registered with the Registrar of Firms should be regarded as registered firms and that no separate proceedings for getting registration under the Incometax Act are necessary. If that suggestion is implemented, it would help to expedite assessments of firms.

2.42. *Section* 141 *relating to provisional assessment to be deleted—*

When returns are received, under section 141, the I.T.O. is required to make a provisional assessment. This provisional assessment is made after scrutiny of the returns and the documents and takes a certain amount of time of the Incometax Officer for completing the scrutiny, issuing the demand notice and chalans. We have recommended in Chapter III that every assessee should be required to pay tax on the self-assessment basis. This would obviate the need to make provisional assessments. **We, therefore, suggest that the provision of section 141 should be deleted and this would save the time of the Incometax Officer now spent on completing provisional assessment so that he could devote his attention to the regular assessment proceedings.**

2.43. *Concurrent jurisdiction to be vested in more than one ITO. Transfers of ITOs to be restricted—*

Frequent changes of jurisdiction and frequent transfers are again factors which dislocate assessment proceedings and cause delay in completion of assessments. The Finance Act of 1967 has provided for concurrent jurisdiction being given to more than one Incometax Officer. **We consider that this provision should be used to confer concurrent jurisdiction to all Incometax Officers working in a particular circle or a Group so that if any Incometax Officer is absent on leave or is transferred, any of his other colleagues may take it up and complete the assessments. Secondly, normally no Incometax Officer should be transferred from a charge unless he has completed at least five years in that particular Circle.** When an Incometax Officer is posted to take charge of a Circle, it takes two years for him to

familiarise himself with all the cases in the Circle. It is only in the third year that the officer acquires the necessary knowledge and proficiency to tackle the cases with speed and if any Incometax Officer is transferred in the third year, naturally the experience he has gained in that Circle is lost and the new officer has to start all over again.

2.44. *Procedure when a case is transferred—*

When a case is transferred from one officer to another, the officer from whom the case is transferred should set out in the order-sheet the list of points on which he has completed the examination of accounts with the results of such examination and also the outstanding points on which he considers further scrutiny necessary; this will save the time of the successor I.T.O., and harassment to assessees.

2.45. *Time-limit for penalty to run from the end of the assessment year—*

Under the provisions of section 271, penalty proceedings have to be completed within two years from the date on which the assessment proceedings were completed. This means that the Incometax Officer must keep a constant watch of this date and must take up the penalty proceedings in the midst of his other regular assessment work with a view to avoiding the time-bar. We have recommended in Chapter VI that the time limits in the Incometax Act should be uniform so as to operate from the last day of the assessment year concerned. **We recommend that section 271 should be amended so as to provide that the time limit for penalty proceedings should be two years from the end of the assessment year in which the assessment was completed.**

2.46. *Time lag in posting cases for hearing to be reduced—*

It will be seen from Annexure 5 that considerable delay occurs between the date of filing the return of income and the date on which the case is first posted for hearing. For example, in Bombay Central Circles, the time lag is more than 7 months. Even in Private Salary Circles the time lag is more than 16 months. Similarly, in Delhi, in Central Circles, the time lag is 9 months and more, in Company Circles 7 months and more and in Business Circles 10 months and more. To minimise this delay, we **suggest that the assessing officer or in the case of functional circles, the assessment branch should decide within a month of receipt of the return the cases which are required to be posted for hearing and such cases should be posted for hearing within at least two months from the date of the receipt of the return.** Since we have recommended selective-test-check for returns of incomes between Rs. 10,000 and Rs. 50,000 such a posting should not prove any difficulty in those cases. In bigger cases exceeding Rs. 50,000 their number will be few in each Circle and there also we do not anticipate any difficulty. Further, sufficient number of officers will be available if our other proposals are given effect to deal with higher income cases and cases for test check.

2.47. *Time lag between date of last hearing and assessment to be reduced—*

The same Annexure discloses that considerable delay occurs between the date of the final hearing and the date on which the assessment order is passed. We do not see any justification for postponing the issue of the assessment order after the last hearing is held. In fact by delaying the assessment order, the Incometax Officer is likely to lose sight of the important points in the case. **We, therefore, suggest that the Department should, either by inserting an appropriate rule in the Incometax Rules or by issuing** appropriate instructions, require every **I.T.O. to pass the assessment order within a fortnight of the last hearing of the case. If, in any particular case, he could not do so, having regard to the complexity of the points involved, he should obtain the permission of the Inspecting Assistant Commissioner stating the time he would take for issue of the order.**

2.48. *Reduction in infructuous miscellaneous work and delegation of certain duties to inspectors or supervisors—*

A good deal of time of the Incometax Officer is now taken up in attending to duties of a varied nature which could be profitably performed by an Inspector or a Supervisor. He has to send a number of monthly/quarterly/half yearly/annual returns to the higher authorities and a host of other statements arising from Parliamentary Questions, Audit queries and other Committees and Commissions. He has also to maintain very many registers which he is expected to scrutinise personally. We are suggesting in Chapter IV the discontinuance of at least 12 of these registers and 34 of the statements prescribed. We have also suggested steps to eliminate infructuous work. These would certainly save much of the time of the Incometax Officer. **Apart from this, the responsibility of sending the other reports, and maintaining the registers should be that of the Administrative Incometax Officer in functional Circles and in non-functional Circles of the Inspector attached to the I.T.O. Where there is no Inspector, the Supervisor should be in charge of this work. These officials should sign these statements and they should be responsible for the accuracy of the figures stated therein.**

2.49. At present, there are 4.21 lakhs cases borne on the registers of the Incometax Department which do not yield any revenue whatsoever, coming as they do under the category of 'N.A.' (No assessment) cases. These are the cases which are carried in the registers from year to year and merely inflate the figures of assessment pendency. The only help they render to the Incometax Officer is that they enable him to include them for his disposals when he closes one such case as "N.A.". As the percentage of such N.A. cases to total number of cases disposed of is nearly 16, vide Annexure 6, **we suggest that a review should be taken immediately to find out as to how many of these cases could be retained from the point of view of the potential revenue they may yield. All the cases which have been closed 'N.A.' for the past three years should be removed from the register unless there is any information on record that they are likely to have taxable revenue or unless there are any proceedings pending in respect of these cases.**

2.50. *Arrears of assessments in other direct taxes—*
The arrears of assessments in other Direct Taxes are indicated below—

TABLE 4

	1965-66				1966-67			
	Total No. of cases for disposal	Cases disposed of	Percentage of disposal	Pending cases	Total No. of cases for disposal	Cases disposed of	Percentage of disposal	Pending cases
Wealth Tax ..	1,34,800	80,733	59·9	54,067	1,61,927	87,695	54·2	74,232
Estate Duty ..	27,141	18,101	66·7	9,040	28,717	18,919	65·7	9,798
Gift Tax	26,461	19,521	73·8	6,940	22,442	15,570	69·37	6,872

It will be seen from the above figures that except in Wealth Tax the percentage of disposal in Estate Duty and Gift Tax is not unsatisfactory particularly considering that in Estate Duty the main reason for pendency is disputed valuations. If, therefore, the difficulties regarding valuation are resolved, there could be quicker pace of disposals in Estate Duty.

Problems relating to valuation are more acute in regard to unquoted shares. In this regard, the Board have recently issued rules for valuation of unquoted shares vide rules Nos. 2A to 2G. There is no specific provision in the Estate Duty Act authorising the Board to make rules for the valuation of assets although the general power is there to make rules for the purpose of the carrying out of the Act. It would be desirable to notify under the Estate Duty, rules for valuation of unquoted shares in companies on the lines of the rules recently notified for the purpose of the Wealth Tax Act. If it is considered that this is not permissible under the Estate Duty law as it stands today, the Law may be amended to provide specific powers in this behalf. Under the Estate Duty law, a special method of valuation has been specified in the case of shares held by the deceased in a company controlled by him. The value of such shares is to be ascertained on the basis of the value of the net assets of the company and not on the basis of sale of such shares in the open market on the date of the death of the deceased. In such case, therefore, the valuation has to be made only on the basis of the net assets and not under any other method. Subject to this exception, it will be desirable to secure uniformity in valuation of assets as between the Wealth Tax and the Estate Duty Acts.

As regards the Wealth Tax, the percentage of disposal is much less than in the Estate Duty and Gift Tax Acts. The reason for this, apparently, is that these assessments are kept pending till the incometax assessments of the same assessee are completed. With the speedy disposal of incometax assessments by adopting the steps suggested by us, we hope that the pendency in wealth tax will go down.

Further, if the Government were to accept the suggestion for an integrated tax return which we have made in Chapter VI, the Wealth Tax and Gift Tax assessments will be completed simultaneously with the incometax assessments and the problem of arrears will gradually disappear.

CHAPTER III
PROBLEM OF ARREARS OF TAXES

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PROBLEM OF ARREARS OF TAXES

3.1. *General*—

It is a perfect tax system which leaves no arrears at the end of the tax year. This is an ideal which is never to be reached particularly in a democratic set-up giving full rights to citizens to challenge the application of fiscal laws by the executive. Even an honest, law-abiding and tax conscious citizen has his differences with the Tax Department regarding his liability and he would feel justified in holding back the amount of tax referable to the disputed additions till he gets a hearing from the appellate authorities. If this is the only reason for arrears, there should be really no cause for any complaint.

3.2. *Progressive increase in tax arrears*—

However, on 30-6-66, arrears covered by such disputed amounts for which stay orders have been obtained, amounted to only Rs. 37 crores, out of the total arrears of nearly Rs. 380 crores. Not only this, there has been a continuous increase in the amounts shown as arrears from year to year as the following figures for the past five years would show:—

TABLE 5

Year	Amount of arrears of tax (Rupees in crores)
	Rs.
Year ending 31st March, 1963	270·71
Year ending 31st March, 1964	277·76
Year ending 31st March, 1965	341·70
Year ending 31st March, 1966	398·61
Year ending 31st March, 1967	541·71 (Provisional)

As remarked by the Direct Taxes Administration Enquiry Committee, such continuous increase "apart from the adverse effect it has on the morale of both the Administration and the tax payers", has "serious unhappy economic significance"[1]. It is not as if the Paliament and the Department are unaware of the growing problem of arrears. In fact, not a single Session in the Parliament has been without a question on the extent of incometax arrears thereby reflecting the concern of the Members of our Parliament over this issue. In the Incometax Act, 1961, several powers have been vested in the Incometax Officers to collect tax and recover arrears. Under the provisions of the Incometax Act, collection can be effected at the pre-assessment stage in four ways—

(i) by deduction at source from certain payments like salary, interest on securities and dividends;

[1]. Page 5: Para 5·2 of the Report of the Direct Taxes Administration Enquiry Committee

(ii) by demanding advance tax in respect of items not covered by (i) above;

(iii) by self-assessment within 30 days of making the Incometax return where the net tax payable exceeds Rs. 500; and

(iv) provisional assessment on submission of the return.

Normally, if there is a perfect compliance with these provisions, the net tax payable should be negligible and should relate only to—

(a) amounts not disclosed by the Incometax assessees and discovered by the Incometax Officer;

(b) amounts with respect to which an honest difference of opinion is held by the assessee and the Incometax Officer relating to their liability; and

(c) cases where the self-assessment tax is less than Rs. 500.

3.3. *Analysis of arrears—*

Analysing the collections made during the year 1965-66, out of Rs. 537.17 crores, the amounts collected at the pre-assessment stages are as follows—

TABLE 6

(Rupees in crores)

	Rs.
By way of deduction at source	90·99
By way of advance tax	209·32
By way of self-assessment	46·19
By way of provisional assessment	30·28
Total	376·78

Thus, only Rs. 160.39 crores were collected after completing the assessments and out of arrears of past years relating to such completed assessments. Arrears of past years and net tax payable on completion of current assessments should be much less if the provisions relating to deduction of tax at source, self-assessment, advance tax and provisional tax had been effectively enforced by the Department and fully complied with by the assessees.

3.4. *Deduction at source—*

Taking the provisions relating to the deduction of tax at source, the biggest items of income from which taxes are statutorily deductible at source are dividends and salaries. The Public Accounts' Committee found that even though the Incometax Act provides for adequate regulations and checks to watch that all employers deduct tax at source from salaries and pay the amount so deducted promptly to the treasury, there has been generally a failure to comply with these provisions. On a test check of a few circles in 1963 and 1964, it was noticed by the Audit that in 464 cases, there was a short deduction of tax of Rs. 2,84,740, in 413 cases tax deducted at source to the extent of Rs. 35,26,000 had not been remitted to the treasury in time and in 76 cases there was a total failure to remit tax by the

employers. Again, it was noticed that the obligation to furnish monthly and annual returns to the Incometax Officer has been honoured more in the breach than in observance. This shows that the provisions relating to the deduction of tax at source have, in many cases, not been properly complied with and the Department also does not have adequate machinery to enforce compliance.

3.5. **In order to ensure proper compliance with the provisions relating to tax deducted at source, we suggest that in the Collection Branch of the functional office, one more Accounts Section should be opened to be exclusively in charge of watching the monthly returns in regard to tax deducted at source and should immediately issue reminders wherever the returns are delayed or wherever from the return it is seen that the tax recovered has not been paid into the Treasury within the due date as prescribed in the rules. For failure to make deductions at source and pay the amount into the treasury, the penal provisions of the Act as contained in Section 201 should be strictly enforced, and wherever necessary, prosecution should be launched. In non-functional circles, a special cell should be opened for watching compliance with the provisions of Sections 192 to 195.**

3.6. *Advance tax*—

As regards Advance Tax, no statistics are available to enable this Working Group to find out whether in all the cases in which notices have to be issued, they have in fact been issued from year to year. That there has been a failure in this regard has been noticed and commented upon in the Audit Reports for 1962 and 1963. In 1963 Audit Report it has been stated that a test audit had revealed that advance tax notices were not issued in 1767 cases involving Rs. 3.07 crores. The Public Accounts Committee while examining the Audit Report of 1962 desired to be furnished with a note setting forth the extent to which the failure of the Incometax Department to make effective use of advance tax sections resulted in loss of revenue or accumulation of arrears and in a note submitted to the Committee the Department of Revenue stated that the information was not readily available and that its collection would involve the examination of the individual assessment records of 2 lakhs assessees liable to advance tax, with reference to a number of years. The Committee, in the circumstances, did not press for the information but expressed concern that the provisions of the Incometax Act which provided built-in safeguards against loss of revenue and accumulation of arrears, should be strictly followed by the Incometax Commissioners and that the Board would take a serious note of any disregard of the instructions issued by them*.

3.7. *Suggestion for stricter compliance relating to advance tax provisions*—

This reveals that the Department has not got any machinery to verify and check whether in all the cases in which advance tax notices are to be issued, they have actually been issued. This inadequacy must be immediately

*Para 30 of the Sixth Report of the Public Accounts Committee (Third Lok Sabha).

remedied. For this purpose, we suggest that in the first two months of the financial year viz. April and May, which are the lean months for the Incometax Department, the Supervisor or the Inspector should first review all the cases where advance tax notices had to be issued and then index all those cases in the Demand and Collection Register maintained for posting Advance Tax Collections (Incometax). After making entry of all such potential cases, a certificate should be furnished to the Incometax Officer incharge of collection in the functional office and to the Incometax Officer of the charge in non-functional office, certifying that all cases where advance tax notices have to be issued, have been indexed. Then only the notices for the advance tax should be sent out to the assessees and the dates of the issue of the notices should be entered in the register. When the notices are served and acknowledgements are received, the dates of receipt of the notices as per the acknowledgements slips should also be entered in the register. This will act as a good safeguard to ensure that notices in all liable cases, are issued.

3.8. *Change in the method of working out advance tax—*

One of the difficulties in the preparation and issue of advance tax notices arises from the fact that in every such case tax has to be collected at the rates of the current financial year on the income of the latest completed assessment. This involves delay in calculation and in many cases, mistakes in calculating the tax. Secondly, the Finance Act is passed by the end of April and the copies of the Finance Act are received in the Incometax Offices only by about the end of September at the latest. In the circumstances, the bulk of the notices do not get issued except between September and December, and the assessees effectively get only two or three instalments, as against four provided in law. This causes inconvenience both to the Department and the assessees and delays the issue of advance tax notices. To remedy this defect, we suggest that **it should be provided in law that the advance tax payable for the current year should be the same as the tax demanded for the last completed assessment.** This would do away with separate calculations and avoid unnecessary delay in the matter of issuing such notices.

3.9. *Instalments to be reduced to three from four—*

Further, we suggest that the instalments of advance tax should be 3 and not 4, payable on 1st of September, 1st of December and 1st of March.

3.10. It has been suggested to us by many officers in the Department that the system of issuing notices for advance tax should be abolished and assessees should be voluntarily asked to pay the advance tax in the same manner as they are sending the Incometax returns. This, according to the officers, will release a good portion of their time to attend to more essential duties. While we feel that there is force in this request, **we are of the view that it is essential to continue the practice of issuing the advance tax notices because otherwise, the Department would not be in a position to**

estimate the Budget properly. Advance tax collections form an important factor in helping the Administration to frame an accurate Budget Estimate.

3.11. *Advance tax payable by new assessees—*

Under the Incometax Act, new assessees i.e. those for whom no assessment proceedings have been completed for earlier years, have to pay advance tax on their own by sending in an estimate. In order to remind such assessees of their obligations under the Act, **we suggest that a week prior to the due date for the instalments, advertisement should be inserted in all the Papers inviting the attention of new assessees who have incomes subject to advance tax, to pay the advance tax voluntarily. Their attention should be prominently invited to the penal consequences of failure in this regard. It should be provided that where an assessee to whom a notice for payment of advance tax has been issued, estimates the tax payable on his income for the current year at a figure which exceeds the tax demanded by the Department by 25 per cent, he should pay tax according to his estimate and not the tax according to the latest completed assessment mentioned in the notice. Failure to do so should entail payment of interest and penalty. The present provision enabling assessees to file estimates where the tax payable by them falls short of the tax demanded, may continue.**

3.12. *Interest—*

The interest for non-payment of advance tax provided in Sections 215, 216 and 217 should be calculated to the nearest 100 and with reference to complete months and not days. For instance, if advance tax payable on the 1st of September is postponed till 15th of September, no interest should be charged on such postponement. But if it is paid on or after the 16th of September, interest for a full month should be charged. The interest should be calculated at 12 per cent and not 9 per cent because the minimum current borrowing rate is 12 per cent; then only it would act as a real deterrent against postponement of the payment.

3.13. *Change in the method for adjustment of advance tax paid—*

It has been represented to us by many that one of the factors responsible for showing inflated arrears is that advance collections are not adjusted against regular demands till the adjustment memos from the treasury are received in the Incometax Office. Under the existing instructions, advance tax is first credited to a separate sub-head under the Major heads III and IV. When the regular assessment is made and demand created, the amount booked under the Minor head "Advance Tax" is transferred by a deduct entry to the appropriate head of account under Heads III and IV. To make this adjustment, periodical statements are sent by the Incometax Officers to the Treasury proposing the transfer; and only after receipt of the treasury memos, the collections are posted in the Demand and Collection Register. Till then, the demand against the assessee is shown as in arrears even though actually the tax has already been collected by advance

payment. It has been suggested that to obviate this difficulty, the Income-tax Officer should be authorised to set off the tax collected in advance on completion of the assessment without waiting for the treasury adjustment —the treasury adjustment being merely a procedural accounting formality need not hold up the adjustment of the tax demand. While we feel that there could be no objection to this proposal, we are of the view that all these difficulties will be taken care of by the introduction of a Personal Ledger Account system which we are suggesting in Chapter IV.

3.14. *Self-assessment and provisional assessment—*

Under Section 141 of the Incometax Act, 1961, the Incometax Officer is authorised to proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee on the basis of the return, accounts and documents. This provision was introduced in 1949 as a variant for the self-assessment system as prevailing in the United States of America so as to expedite collection of incometax. Later on, in 1964, Section 140A providing for self-assessment was introduced with effect from 1-4-64. But this section has been made applicable only to cases where the net tax payable by an assessee exceeds Rs. 500. With the introduction of the self-assessment system, the need to make a provisional assessment largely disappears. The provisional assessment proceedings do take a considerable time of the Incometax Officer because he has to complete the provisional assessment in the same manner as he does the regular assessment under Section 143(1) because a provisional assessment demands scrutiny of the documents and statement accompanying the return. Besides, the assessees also feel piqued that they have to comply with so many demands each quickly following the other, before the assessment is completed.

Thirdly, the amount collected from provisional assessments has started going down from 1963-64. The figures are—

TABLE 7

Year	Demands raised	Collections made
1963-64	Rs. 86.37 crores	Rs. 83.17 crores
1964-65	Rs. 52.12 crores	Rs. 49.02 crores
1965-66	Rs. 34.60 crores	Rs. 32.27 crores
1966-67	Rs. 28.71 crores	Not available

Having regard to these factors, we consider that the time has come to delete Section 141 relating to completion of provisional assessments. At the same time, the provisions of Section 140A should be extended so as to cover all cases whatever be the net demand payable by the assessee and the time now given of 30 days to pay the self-assessment demand should be withdrawn. In the countries in which the self-assessment is in vogue, the tax is payable along with the return. The very concept of self-assessment will be defeated if time is given for payment of tax. It may be argued that

an assessee may not be in a position to know the exact amount of tax payable by him and hence time is given to enable him to ascertain and pay it. But when an assessee proceeds to work out his total income, he would also be in a position to know the tax payable thereon particularly after the simplification of the tax structure. Even today, the tax calculation is not provided to the assessee by the Incometax Department in regard to self-assessments. The assessee pays on the basis of his own calculations and if he could do so now within the period of 30 days, there is no reason why he should not get it ascertained while working out his total income and pay it along with the return of his income. Wherever the tax payable on self-assessment is in excess of Rs. 100, it should be paid by way of a cheque drawn on the State Bank or one of the scheduled banks. If the tax is for less than this amount, postal orders should be obtained and filed along with the return.

3.15. *Effective arrears of regular demands—*

As stated already, the collections at the pre-assessment stage constitute nearly 70 per cent of the total collections in a year. The balance 30 per cent relates to collections out of arrear demands of preceding years and collections out of current demands on finalisation of assessments. Uncollected arrears touched nearly Rs. 400 crores for the period ended 31st March, 1966 (the exact figure is 398.66 crores) and exceeds Rs. 540 crores (the exact figure is 541.71 crores) for the period ended 31st March, 1967. Though these figures look rather alarming, they include amounts which have not yet fallen due for recovery and amounts which are due for adjustment consequent on separate proceedings being taken, such as, protective assessments and demands which will be wiped out on settlement of Double Incometax reliefs. Taking the year 1965-66, a demand of Rs. 106.54 crores was raised in the month of March which was payable only in April and hence cannot be classified as arrears though the figure is included in the total arrears. For the same period the following amounts were pending adjustment consequent on separate proceedings:—

(i)	Amount pending settlement of Double Incometax or other reliefs claimed ...	Rs. 79 lakhs
(ii)	Amount involved in protective assessments	Rs. 279 lakhs
	Total	Rs. 358 lakhs
		i.e. Rs. 3.58 crores

Thus, excluding the sum of Rs. 110.12 crores (Rs. 106.54 + Rs. 3.58 crores) the real effective arrears can be said to be only Rs. 288 crores as on 31-3-66. It should be remembered that this figure does not pertain to one year's demand but it is the net result of arrears carried over from past years also. For example, taking this amount of Rs. 288 crores, 54 crores relate to arrears carried forward from 1955-56 and the earlier years; about 114 crores are arrears carried forward between 1956-57 to 1963-64 and about 65 crores are the arrears carried forward from 1964-65. Thus, nearly 75

per cent of the arrears relate to earlier years. Analysing the recovery percentage of the arrears for the various years, it is seen that only 2.57 per cent of the arrear demands relating to 1955 and earlier years was collected during 1965-66. Of the arrear demands from the years 1956-57 to 1963-64, only 9.9 per cent was collected; of the arrears of 1964-65, about 41.2 per cent was collected and of the current demand i.e. 65-66, only 53.5 per cent was collected. The highest collection percentage did not exceed 53 per cent and the lowest was 2.5 per cent, the percentage declining sharply as the age of the arrear advances. We sought to ascertain the reasons for this frozen crust of arrears carried forward from earlier years and the reasons appear broadly to be—

(a) Stay obtained by tax payers at the appellate stages;

(b) inaction on the part of the Incometax authorities to take prompt action to reduce the outstanding demand whenever assessees succeed on appeals;

(c) non-adjustment in accounts of advance tax on completion of the final assessment;

(d) delayed and cumulative assessments made in big assessment cases and raising huge demands at a single point of time forcing the tax payer to ask for instalments;

(e) delayed assessments completed after the assessees had become insolvent or companies had gone into liquidation;

(f) tax due from persons who have left India mostly for Pakistan, leaving behind no assets; and

(g) assessees not being traceable, or where traceable, assessees having little or no assets to meet the demand raised against them.

3.16. *Law to be amended to permit appeal only after undisputed demand is paid—*

Under the Incometax Act, power has been given to the Incometax Officer, to stay tax on a request from the assessee when an appeal(s) is preferred to the Appellate Assistant Commissioner. No express power has been given to the Incometax Officer in the Act for stay of tax when appeals are preferred to the Appellate Tribunal, the High Court or the Supreme Court. The Incometax Investigation Commission had recommended that a specific provision should be made in the Incometax Act to enable the appellate authority to order stay of recovery of tax pending disposal of appeals[1]. The Direct Taxes Administration Enquiry Committee felt that no such specific provision need be made as that would only result in assessees filing frivolous appeals merely with a view to obtaining time for payment of tax and would involve duplication of work of the appellate authorities—once for taking a decision on the request for the stay of collection and a second time for deciding the appeal on merits[2]. Therefore, no amendment was made in the Incometax Act conferring power on the

[1]. Para 261 of the Report of the Incometax Investigation Commission.
[2]. Para 4·52 of Chapter IV of Direct Taxes Administration Enquiry Committee's Report.

Incometax authorities or the Appellate authorities to stay recovery of tax on appeals. However, the prevalent legal opinion appears to be that even without a specific provision the appellate authority has an inherent jurisdiction to entertain petitions for stay of tax on matters of appeal. In fact the Incometax Appellate Tribunal is entertaining such requests and granting time for payment. **It is high time that this matter was clarified by a legislative amendment. We recommend that such legislative amendment should provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless tax is paid on the undisputed amount involved in the assessment. We recommend that similar powers should be taken under the Estate Duty Act to provide in Section 62 of that Act that no appeal will lie against an order determining estate duty unless the duty on the undisputed items is paid before the appeal is filed.** By this the Department will be able to collect promptly a portion of the tax in such cases. The present position is that in many cases stay order is obtained for the entire tax even though it includes amounts in regard to which there is no dispute between the assessee and the Department.

3.17. *Appellate orders should be given effect to within three months—*

It has been represented to us that in many instances when the assessees succeed on appeals before the Appellate Assistant Commissioner, the original tax demand in respect of which the tax remains unpaid pending appeal, is not reduced promptly and this tends to distort the picture of arrears. **At present, there are no regulations prescribing a time limit for giving effect to appellate orders. We suggest that a time limit of 3 months should be laid down either by law or by executive instructions for implementation of all appellate orders. This would go to reduce the arrears.**

3.18. As regards non-adjustment of advance tax paid against the regular demands, the problem is limited only to the last two months of the financial year. As has been stated already, in para 3.13 supra, it takes about 2 months for the treasury under the present arrangements to send the adjustment memos to the Incometax Officer upon receipt of which the advance tax collection is set off against the demand. Therefore, all advance tax collections relatable to demands raised on assessments completed in February and March will have to remain unadjusted thereby inflating the arrears. We have suggested a revision of the procedure which, if given effect to, will take care of this time lag.

3.19. *Tendency to make cumulative assessments by the end of the financial year—*

The real and the more serious reason for heavy arrears is the tendency on the part of many Incometax Officers to delay the assessments till the end of the financial year and make cumulative assessments for more than one year, particularly in big assessments cases, resulting in piling up huge demands which naturally the assessee is unable to discharge. Out of a total

demand of Rs. 366 crores raised in 1965-66, demand for Rs. 152 crores was raised in the closing months of February and March, 1966. Out of this, demand for Rs. 106 crores was raised in the closing month of March and near about one-half of this 106 crores was raised in the last seven days of March. The total number of assessments completed during the last seven days was nearly 64,000. When assessments are hurried through like this in the closing months of the year, a natural tendency is to make huge additions expecting the matter to be set right on appeals. When the matter comes up on appeal the appellate authority remands the case for full investigation or sets aside the assessment for being re-done after further examination. This gives unlimited time to the Incometax Officer to submit the remand report or complete the set-aside assessment. We have suggested in para 2.40 of Chapter II, that a time limit should be imposed for re-doing the set-aside assessments. **For submitting remand reports also, we would suggest that a suitable time limit should be laid down and if no remand report is submitted by the Incometax Officer by that date, the appeal should be disposed of by the Appellate Authorities without such reports and the responsibility for loss of revenue in such cases should rest on the Incometax Officer.**

3.20. *Time limit for passing rectification orders—*

Similarly, **a time limit should be laid down for passing rectification orders on petitions submitted by the assessees.** Such a time limit should be three months from the date of the receipt of the petition. This will also help to take off the fictitious arrears from the demand register.

3.21. *Tax due from untraceable assessees—*

One of the factors responsible for large arrears is the demand raised against assessees who have become untraceable. Often times, from internal survey information is received that taxable income had been earned by certain assessees at certain given addresses but when proceedings are taken for assessment or re-assessment, the assessees are found to be not traceable at the addresses given. Normally, the Department makes further efforts to trace the assessees and if by the time the assessment becomes time-barred the particulars of the whereabouts of the assessees are not known, the Department completes the assessment exparte so as to keep the demand alive. In such cases, recovery is not possible and after some time the amounts have to be written off. The whole work, therefore, is infructuous besides creating an artificial demand. **It was suggested by some of the Incometax Officers who met us that where the records showed that the assessees were not traceable, no assessment proceedings should be initiated against them, but in order to safeguard any possible loss of revenue, the law should be amended to provide that in cases of assessees not traceable, there should be no time-limit for re-opening their assessments. This would prevent assessees going underground till the period of limitation of 8 years is over. We consider that this suggestion is a good one and we recommend its acceptance.**

3.22. *Write-off of irrecoverable arrears to be quickened—*

While reporting arrears to the Parliament and to the Public Accounts Committee, the Department usually adopts a formula of showing the gross arrears and the net effective arrears. In working out the net effective arrears a certain amount is deducted from the gross arrears on account of arrears estimated as irrecoverable. Thus, for example, for 1965-66 though the gross arrears are shown as Rs. 398.61 crores, the net effective arrears are shown as Rs. 232.11 crores. In arriving at this net effective arrears, a sum of Rs. 37.85 crores is shown as amount estimated to be irrecoverable. In the preceding years also, the amount estimated to be irrecoverable is fixed round about Rs. 30 to 40 crores per year. These amounts are in the parlance of commercial accounts, bad debts of the Department. Just as a prudent businessman will write off all such bad debt amounts, the Government also should take steps to remove such irrecoverable demands from its accounts. But the pace of write-off has been uneven and slow over the past many years as the following figures would show:—

TABLE 8

Year	Revenue from Income-tax Rs. (in thousands)	Amount written off Rs. (in thousands)	Percentage of remission to receipts
1959-60	2,54,71,45	3,34,32	1·312
1960-61	2,77,54,60	3,65,92	1·354
1961-62	3,21,84,80	1,75,92	0·546
1962-63	4,07,45,55	4,39,91	1·079
1963-64	5,32,88,00	1,60,37	0·301
1964-65	5,80,57,00	97,47	0·167
1965-66	5,76,64,00	37,65	0·065

Taking 1964-65, even though the total amount estimated to be irrecoverable is Rs. 37.85 crores, only Rs. 37.65 lakhs have been written off that year. The reason for the slow progress in write-off of irrecoverable demands appears to be a justifiable fear on the part of the Incometax authorities that their action in writing-off demands would be open to criticism in Parliament and elsewhere. They are generally afraid of taking up the responsibility to write-off the amounts, although they are convinced that there is no chance of recovery in such cases.

3.23. In order to overcome this difficulty, we suggest that there should be a Committee consisting of a Board Member, a Director of Inspection and the local Commissioner of Incometax, to consider and write-off all demands between Rs. 1 lakh and Rs. 5 lakhs. For demands upto Rs. 1 lakh, there should be a Committee for write-off in the charge of each Commissioner of Incometax, consisting of the Commissioner of Incometax, the

Inspecting Assistant Commissioner and the Incometax Officer having jurisdiction over the case. Writes-off of amounts exceeding Rs. 5 lakhs should be decided by the Board. In order to have a systematic review of all such irrecoverable amounts, a quarterly report must be sent by each Incometax Officer to the Commissioner of Incometax setting out in three lists on the basis of the monetary limits suggested above, the particulars of the cases to be considered for write-off with steps taken by him for recovery of the amounts. On receipt of these lists, the Commissioner will constitute a Committee consisting as aforesaid, for considering writes-off of demands below Rs. 1 lakh and the decision of the Committee will be communicated to the Incometax Officer who will immediately take steps to remove these demands from the register. The list of the cases where demand exceeds Rs. 5 lakhs should be sent to the Board quarterly to enable the Board to consider these cases and communicate its orders for write-off. Unless this is done in a systematic manner, the distorted picture of the arrears will continue to remain as it is.

3.24. *Scaling down of demands*—

A related question pertains to scaling down of demands. Scaling down of demand differs from write-off in that, in the case of a scaling down, the assessee makes a clean breast of all the assets held by him and requests the Department to scale down the demand pending against him to a figure which having regard to the assets held by him he will be able to pay. The present arrangement for scaling down is that a Committee consisting of the Director of Inspection (Incometax) and two Commissioners of Incometax, considers such petitions and sends up its recommendations to the Board. On acceptance of the recommendations by the Board, an agreement is drawn up between the assessee and the Department—the Department agreeing to scale down the demand in consideration of the assessees' offer to pay the tax in stipulated instalments backed by security.

The present procedure is working fairly satisfactory and we do not suggest any modification except that, as a measure of safeguard, the terms of the settlement should provide that if, in future, any asset not disclosed by the assessee comes to light, the settlement would fall through and the original demand would be revived for enforcement. Such a clause used to be inserted in the settlements entered into by the Investigation Commission and could be usefully adopted for scaling down petitions also.

3.25. By taking the steps enumerated above, the arrears will be sizeably reduced, but still, the amount to be recovered will by no means remain insignificant.

3.26. *Over-assessments*—

It has been seriously argued by many of the Chartered Accountants and other representatives who appeared before us that the main reason for such arrears is not due to any recalcitrant attitude adopted by the assessees but thoughtless huge additions made by the Incometax Officers to the returned figures. They argue that in order to avoid criticism and

with a view to earning good remarks of their official superiors the Incometax Officers adopt the safe line of rejecting the accounts and making huge additions leaving the assessee to get what redress he could by way of appeal. It has been suggested that this tendency to over-assess has been encouraged by the Department's failure to take cognisance of over-assessments particularly when the fact of such overassessment becomes evident by huge reductions on appeals. It has been further suggested that a provision on the lines of section 13 of the U.K. Act should be enacted in the Indian Incometax Act also to act as a deterrent against overassessments. We consider that any provision made in the law on the lines of section 13 of the U.K. Act would not be of any effective help because before proceeding against an officer it should be proved that there was wilful over-assessment, which it will be impossible to establish. Further, it is possible to lay the charge of over-assessment on the part of the Incometax Officers only when a stage is reached that all assessees start keeping regular audited accounts. By this we do not wish to be understood that we are unmindful of the existence of a tendency to pitch the assessments high but this tendency is not as wide as assumed. We are convinced that with the adoption of the various methods relating to the streamlining of the assessment procedure detailed by us in Chapter II, there may not be many cases where the Incometax Officer may be in a position to make over-assessments.

3.27. *Tax recovery work to be taken over by centre*—

Finally, in regard to those cases where recovery certificates have been issued, the pace of recovery depends upon the effectiveness of the machinery employed to do the recovery work. The Direct Taxes Administration Enquiry Committee found that the State Revenue officials who were entrusted with the collection of incometax arrears evinced little interest in the work, with the result that the collection of tax covered by recovery certificate was tardy. They, therefore, recommended that the recovery work should be taken over by the Incometax Department itself under a separate Central Revenue Recovery Code and the collection work should be transferred to a central collecting agency working under the directions of the Central Government itself. Accepting this recommendation, the Incometax Act, 1961 provided for the appointment of the Tax Recovery Officers by the Central Government whose powers were defined in the Incometax Act itself vide the Second Schedule. However, in the matter of transferring the recovery work completely to such Tax Recovery Officers, there has been an inordinate delay. Even today, in the following States, tax recovery work is still carried on by the State Revenue officials—

Assam and Nagaland

Bihar and Orissa

Jammu & Kashmir

Madhya Pradesh.

In the following States it is the State Government revenue recovery squads which continue to collect the arrears of incometax, the cost of their pay and allowances being met by the Central Government—

Uttar Pradesh
Kerala
Bombay City
Poona
Punjab
West Bengal
Madras (other than Madras City).

Only in the following States, tax recovery work has been taken over by the Incometax Department with effect from 1-10-1967—

Delhi and Rajasthan
Andhra Pradesh
Madras City
Gujarat
Mysore
Mysore (taken over with effect from 1-6-66).

It has been the experience of the Department that the State Government officials, whether they function exclusively for the purpose of the recovery of the incometax work or have this recovery function as a part of their general duties, are completely ineffective in the matter of collection of incometax dues. It has been reported to us that in many cases the assessees do find a great relief when a certificate under section 222 is issued so that they could get a very lenient treatment from the State Government officials. Unless the State Government officials are under the administrative control of the Incometax Department there is no use depending upon them to play an effective role in the matter of recovery. As this is not possible, the proper way would be to take over the recovery work in all the States by the Incometax Department and if the Incometax Department feels that it requires the experience of the State Government officials, it should have them transferred either on deputation or by way of a permanent absorption to the Incometax Department. Otherwise, there is no prospect of an improvement in this regard. We would suggest that the Department should set a target date by which all the recovery work will be taken over by the Central Government itself, to be administered by the officers of the Incometax Department.

3.28. The provisions of the Incometax Act, 1961 prescribing a separate tax recovery code have not been made applicable to Estate Duty demands since Section 73(5) of the Estate Duty Act provides that the provisions of the Incometax Act, 1922 relating to recovery would apply to recovery of Estate Duty also. Thus, even if the tax recovery work is taken over by the Central Government by virtue of the provisions of the Incometax Act, 1961, these Central Govt. recovery officials will not be having legal powers

to recover Estate Duty unless the Estate Duty Act is amended so as to apply the tax recovery code under the Incometax Act, 1961 to the recovery of the Estate Duty dues. **We suggest that the Estate Duty Act may be amended immediately to remove this lacuna.**

3.29. The Estate Duty Act, 1953 by its Section 56(1)(b), prescribed that no order entitling an applicant to the grant of representation shall be made by a court until the applicant has produced a certificate from the Assistant Controller under Section 57(2) or 67 that the Estate Duty payable in respect of the property mentioned in the application for grant of probate has been or will be paid, or that none is due, as the case may be. Under Section 2(18), "representation" has been defined to mean probate of a will or letters of administration. The term probate has been defined under Section 2(f) of the Indian Succession Act, 1925 as "the copy of a will certified under a seal of a Court of competent jurisdiction with grant of administration to the estate of the testator". Thus Section 56(1)(b) of the Estate Duty Act, 1953 debars only grant of representation without a certificate from the Assistant Controller. The Estate Duty Act, 1953 does not provide any such restriction to the assumption of benefits by a legal representative of a deceased from the assets left by the deceased, without any will. For instance, even in the case of an immovable property left by the deceased intestate, the accountable person can get his name mutated for the deceased's name in the deed of registration of the property left by the deceased and assume the ownership of that property without obtaining a representation. In such cases, the Assistant Controller has no legal authority to prevent the accountable person from assuming the ownership of such property and enjoying the income therefrom, even without paying or making arrangements to pay the estate duty payable by him. In order to remove this lacuna, **we suggest that Section 56(1)(b) of the Estate Duty Act, 1953 may be amended suitably to cover cases of the type mentioned above also.**

3.30. It has been suggested to us that it would facilitate easier and swifter collection of tax and also minimise harrassment to assessees if the Department has arrangements to collect the dues in its own treasury as the Customs Department is doing, and also maintains a kind of personal Ledger Account in respect of every assessee. **We are in entire agreement with this suggestion and we have outlined a scheme providing cash collections at the departmental counter and providing a personal ledger account for each assessee in Chapter IV.**

CHAPTER IV

SIMPLIFICATION OF PROCEDURES WITH A VIEW TO MINIMISING INCONVENIENCE TO ASSESSEES AND AVOIDING UNPRODUCTIVE LABOUR FOR THE ADMINISTRATION

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4.1. *General*—

Tax payer response decreases in direct proportion to the complexity of the procedures he has to go through. Complicated procedures repel tax compliance and many an assessee with a sincere and honest desire to fulfil his tax obligations finds it difficult to afford the time and expense to go through the prescribed processes. This leads to default and default instils a fear driving the assessee to the fold of tax evaders.

4.2. *Stages of Incometax Proceedings*—

Income tax proceedings consist broadly of four stages: —

(1) Pre-assessment proceedings such as payment of advance tax, payment of annuity deposit and submission of returns.

(2) Assessment proceedings ending with determination of liability.

(3) Payment of tax.

(4) Appeal proceedings, where appeals are preferred.

4.3. *Facilities to Assessees to inform themselves of their tax obligations*—

Each one of these stages involves compliance of prescribed processes and procedures. Before an assessee is enabled to comply with these procedures and processes correctly, the Department should satisfy itself that the assessee has the means of informing himself of the provisions of the law and the rules and of his rights and obligations. At the present moment, the Department largely proceeds on the assumption that it is the assessee's duty to know the provisions of the law and abide by them and it is no part of the Department's duty to assist him in this process. If there is any default by the assessee, the principle of "ignorance of law is no excuse" is applied and prescribed proceedings initiated for such failures. The dictum 'ignorance of law is no excuse' was laid down at a time when the laws were few and fairly well understood in a language which the citizens spoke, but to take shelter under it when a citizen has to face thousand and one laws governing every phase of his life and laws so complicated and complex that even experts are not in a position to understand their implications is hardly justifiable, particularly so when the language in which the law is enacted is not understood by the majority of the tax payers. Therefore, it is the paramount duty of the Administration to help assessees to know their rights and obligations so as to win their co-operation and willing compliance. A step in this direction was

taken years ago when the Department published a booklet called "Income-tax for the Layman". It was followed by other booklets such as "Estate Duty for the Layman" and "An outline of the Direct Taxes." These publications are now out of date and even if they are brought uptodate, they only deal with the elementary propositions of the law and may not be of much assistance in helping an assessee to fill up his return form or to know how the liability in his particular case is determined. By this, we do not wish to be understood that these books have not served any useful purpose. On the contrary, by putting across a complex law in a simple and lucid language the Department has enabled many a lay reader to understand broadly the pattern of incometax legislation in India. Therefore it is necessary to continue to provide this foundational literature and we would urge the Department to bring out revised editions of these books not only in Hindi and English but in all the regional languages. But it is more essential to put out small booklets explaining particular aspects of the law and the rules which may be of assistance to the tax payer, such as determination of the liability of non-residents, determination of liability of firms, determination of liability of Hindu Undivided Families, rebates and reliefs admissible under the Act, capital allowances such as depreciation allowance and development rebates, etc. These booklets must be printed in the local languages and must be available to each assessee at the beginning of the year in a folder modelled on the lines of the "Businessman's kit" issued by the U.S.A. Along with these hand outs, forms of return of income and such other forms as are to be filled in by the tax payer, such as, estimates for advance tax, may also be placed in the appropriate folder of the kit. A specimen form of the kit in use in the U.S.A. is attached to this report. We would recommend a paper jacket to be prepared on the same lines giving prominently the various due dates which an assessee has to keep in mind for complying with the various provisions of the law.

4.4. *Forms of Return*

The basic document in an assessment proceeding is the return of income. It is essential that the form of this return is so devised as to enable an assessee to fill it up easily, quickly and correctly. An attempt at simplification has already been made by the Central Board of Direct Taxes which has now prescribed three return forms—form 1 for companies, form 2 for assessee other than companies with incomes above Rs. 15,000 and form 3 for assessees with incomes below Rs. 15,000.

It has been agreed by all that form 3 is the simplest form so far devised by the Department, but there has been a good deal of criticism regarding the other two forms—form No. 1 and form No. 2. The criticism generally centres upon the number of annexures introduced in these two forms and the number of signatures that have been prescribed for each one of these annexures. We have ascertained from the Central Board of

Direct Taxes that the reason for prescribing these annexures is really to help the assessee to set out all the relevant information for the purpose of completing the assessment so that it may not be necessary for the Department to call for information piece-meal and thereby delay the assessment. It was also pointed out that a person who does not want to fill up these annexures, could detach them and send only the relevant portion applicable to his income. However, the rule prescribing this return does not appear to permit such a procedure and therefore in every case the full return must be submitted scoring those columns of the annexures which are not applicable. Secondly, there are 30 pages of foolscape size in form 2 and most of the assessees do not have to fill up all these pages. The result is a considerable waste of stationery which the Government could well avoid.

Similarly in form 1, relating to Companies there are many annexures which may not be found to be relevant in the case of most of the companies. For example, Annexure 5 dealing with development allowance is applicable only to tea companies. It has, therefore, been suggested to us that a further simplification in the returns could be achieved by having a basic form for all assessees setting out the total income, the reliefs and deductions claimed therefrom, such as for life insurance premia, donations to charitable institutions, etc., and the net taxable income with tax thereon. This basic form should provide on the reverse of it a tax table so as to enable the assessee to work out the tax on the basis of the information given therein. At the end of this one-page return a solemn declaration and certificate must be appended affirming the correctness and the truth of the total income. Provision must be made in the return form itself for attaching the cheque or postal order for payment of the tax on self-assessment. To this basic return, separate annexures should be attached wherever a particular head of income or a particular allowance such as depreciation allowance, is claimed. These annexures should be made available to the assessees at the Incometax counters through the Public Relations Officer. We endorse these suggestions and recommend them for acceptance.

4.5. It has been represented to us by many that year after year, the assessees experience great difficulty of getting their return forms in time, to enable them to send the returns by the due date. It was pointed out, and correctly, that the Incometax Officers do not have the stock of return forms even by the end of June and this has prevented assessees from complying with the provisions of the law regarding submission of returns by the 30th of June. The difficulty has arisen because the Controller of Printing and Stationery and the Government of India Press do not give sufficient priority to the printing of these return forms. It was therefore suggested to us that the Commissioners of Incometax must be authorised to have these forms printed locally or the assessees should be permitted to have their own forms typed out or printed so that this difficulty might be overcome.

Therefore, we suggest that sufficient authority must be delegated to the Commissioners of Incometax to have the forms printed in the local press and make such forms available not only through the Incometax Office but also through the Post Offices. If necessary, the Government may charge a nominal price so that abuse of stationery may be prevented. There should be no objection in our view if assessees submit their returns in typed or privately printed forms, provided these forms conform to the prescribed pattern.

4.6. *Routine issue of* 143(2)/142(1) *Notices to be avoided—*

After the return is received, the next stage is calling for evidence in support of the return and calling for accounts and documents. This is now done as a matter of routine in all cases by issuing notices under sections 143(2) and 142(1). We have suggested in Chapter II that this practice of issuing notices under sections 143(2) and 142(1) in a routine manner should stop and notices should be issued only in those cases which are taken up for test scrutiny as prescribed for the various income groups in that chapter. Many of the assessees' representatives told us that it would be helpful to them if both the notices under sections 143(2) and 142(1) were combined and a specific list of points on which information was required was attached to the notice. We agree to both these suggestions and commend their acceptance.

4.7. *Assessee to get seven clear days from date of service—*

It has also been represented to us that sufficient time is not given for complying with these notices. Even though between the date of the notice and the date on which appearance is required there is a time gap of more than a week, the date on which the notice is served is, in most cases, 4 to 5 days after the date mentioned in the notice. This hardly gives more than a day or two for the assessees to comply with the notice and hence causes inconvenience to them. We agree that the assessee should get seven clear days from the date of the service of the notice and for this purpose we have already suggested that the Incometax Officer should himself make out a fortnightly or a weekly list of cases and send it to the office besides exhibiting such a list on the Notice Board. If in any case, the assessee fails to comply with the notice for the reason that seven clear days were not available to him from the date of the service of the notice, the assessee should not be liable to any proceeding for such default, such as completion of assessment under section 144 or penalty under section 271.

4.8. *Notices to be served on Assessee's Representative—*

The delay in service of the notice has been attributed by the departmental officials to the delaying tactics adopted by many of the assessees who generally avoid receipt of notices from the Incometax Department. When we put this to the assessees' representatives, they suggested that all

notices should be served not on the assessees but on the assessees' representatives, so that this difficulty would not arise. **We accordingly recommend that wherever the power of attorney filed by an assessee's representative permits notices to be received on behalf of the assessee, notices should invariably be sent to the assessee's representative and not to the assessee. Only where the personal explanation of the assessee is required, he should be summoned under a notice issued under section 131.**

4.9. *Facilities to Pay Tax at Incometax Office cash counter*—

Another difficulty experienced by the assessees is in regard to payment of tax. The procedure that is at present existing in the Incometax Department for the collection and demand of tax from and making refunds to the assessees is briefly narrated below :—

The tax due is to be paid into a Treasury or the Bank at places where the cash business of the treasury is conducted by the Bank (State Bank of India or Reserve Bank of India as the case may be). The amount payable is to be tendered with a challan showing distinctly the nature of the payment, the person or Government officer on whose account it is made and all the information necessary for the preparation of the receipt to be given in exchange and for the proper classification of the credit. So far as Incometax revenues are concerned a special form of challan has been prescribed for the payment of incometax into treasuries. These challans are issued by the Income-tax Officer concerned who would indicate the name of the assessee, the heads of classification, the assessment year etc. These challans are prepared in triplicate. The Treasury or the Bank acknowledges the receipt of the money and issues one copy of the challan to the remitter retaining two copies. The Bank or Treasury sends the original part of the challan to the Incometax Officer and duplicate to the Accounts Office. On receipt of the counterfoil of the challans from the Reserve/State Bank or Treasury, they are arranged according to the numbers given by the Treasury and then entered in the same order in the Register of Daily Collections every day in the Incometax Office. This Daily Collection Register is sent to the Treasury every month for verification of departmental figures with the Treasury figures and any discrepancy in classification is rectified after such verification. The total of the collection as per the register is tallied with the Treasury figures. After the monthly verification is over, the Treasury Officer certifies as to the correctness of the figures and if there is any error in classification or if there is any misposting, adjustment memos are proposed for rectification of the error. Separate Daily Collection Registers are maintained for advance tax and regular tax demands. The procedure set out above applies to both. The collections from the various assessees are posted in the Demand and Collection Register where also two registers for (1) advance tax and (2) regular tax demands are maintained. The Register of Demands and Collections for advance tax consists of two parts viz., (1) arrear demands pending and (2) current demands.

Excluding the salary cases, and other cases of tax deduction at source the number of assessees under category I to IV will be approximately 17 lakhs. It will not be an exaggeration if it is stated that no less than two million challans are put into use every year, on an average in the whole of the country. The estimate may be on the conservative side only, because for payment of advance tax in instalments, as many challans as the number of instalments have to be issued. Again to enable an assessee to pay interest, penalty etc. separate challans are issued.

The travails an essessee has to undergo to remit the moneys in treasuries or banks are well known. The existing procedure of making payments into the public account is extremely tortuous. Besides causing the assessee a lot of harassment, the present system of issuing not less than 2 million challans for incometax alone, receiving and accounting for them throws a heavy burden of work on treasuries and in the Income-tax Offices. The monthly reconciliation of departmental figures and treasury figures are also rendered ineffective due to heavy volume. The present system of maintaining the Demand and Collection Register does not enable the Revenue Department to find out the total dues outstanding against an assessee or refund due to an assessee, at a glance of the Register, since arrears, current demands and collections are kept separately for each year in several folios of the Demand and Collection Register. Further the Demand and Collection Register which was evolved a few decades back, is incapable of providing the necessary information with accuracy and quickness. As an instance it may be stated that the Revenue Department are not in a position to gauge the extent of arrears of demand correctly on a particular date as is evident from the varying figures furnished in Audit Reports on Revenue Receipts and in the Reports of the Public Accounts Committee thereon.

The existing arrangements regarding refunds to assessees also are quite unsatisfactory. Refunds wherever due are allowed either by issue of refund vouchers encashable at the treasury, State Bank of India or the Reserve Bank or by adjustment towards demands due from the assessee relating to other years. Rule 401(2) of Compilation of Central Treasury Rules. Volume I prescribes a special procedure for the refund of Incometax and Supertax. The procedure is detailed in Appendix 5 of Compilation of Central Treasury Rules Volume II. The sufferings an assessee has to undergo to obtain a refund from the Incometax Department are so well-known that they need no repetition here.

To obviate the difficulties and defects involved in the system at present in vogue as enumerated above, a scheme providing for the collection of demands by the Incometax Department itself and for the maintenance of an individual ledger account for each assessee is suggested in following paragraphs.

With a view to expediting completion of assessements and improving collection of revenue, the work among Incometax officers is being distributed on a 'functional basis' as envisaged in the Finance Act, 1967. Under the functional system of distribution of work, a separate 'collection branch' to be manned by one or more Incometax Officers according to the work load involved is entrusted with the following items of work :

(i) Issue of advance-tax demands and control of payments.

(ii) Maintenance of watch over self-assessments, issue of demands notices on regular assessments and control of payments.

(iii) Pursuance of action to recover the demands due.

We suggest that to this Branch should be attached a "Collection Counter" where assessees can remittheir dues instead of into the Treasury/ Bank either by cash or by cheque. The following organisational set up is required to give effect to the scheme :

(a) A 'Collection Counter' should be set up in each charge of Inspecting Assistant Commissioner. This Counter shall be placed in charge of an Inspector, with a few assistants according to the work load. The Inspector will be the Chief Cashier.

(b) Along with the demand notices issued for advance tax, final tax demand, interest or penalty etc., a remittance slip showing name of assessee, assessment year, complete classification and the amounts creditable to each head should be issued to assessees. The remittance slip should specify 'Collection Counter' where the amount is to be remitted within the due date specified.

(c) A remittance slip book with a foil and counterfoil is to be kept in each collection branch. The foil of the remittance slip should be attached to the demand notices issued to the assessees. Where, however, tax deducted at source is to be remitted, the foil of the remittance slip alone may be issued to the persons who have deducted tax at source to enable them to remit the amount into the 'Collection Counter'. A specimen form of remittance slip is in Annexure 7.

(d) On presentation of remittance slip with or without the demand notice and cash, in the collection counter the assistant incharge, should receive them and should prepare a Receipt in Form T.R. 5 referred to in Rule 83 of Compilation of Treasury Rules and issue it to the depositor duly signed by the Officer incharge of collection counter. The Assistant receiving the cash should maintain a Day Book, recording the transactions in serial order as they occur. Before the officer-incharge signs the receipt for cash received, he should see that the receipt of the money has been duly recorded in the Day Book and in token

of the check the entry in the Day Book should be initialled and dated at the same time. A specimen form of Day Book is indicated in Annexure 8. Necessary receipt stampings should be made in the Remittance slips.

(e) If instead of cash, cheques are tendered in payment of Government dues, they can only be accepted at places where the cash business of the treasury is conducted by the Bank and the cheques should be only on local banks. The cheques should be crossed. On presentation within the remittance slip, only a simple receipt for the cheques is to be given in the first instance. The preliminary acknowledgement of the receipt of the cheque will be given in the form below :—

"Received cheque No....., for Rupees.....drawn on ..... on account of ..... as per Remittance Slip No....."

Until the cheque has been cleared, the Government cannot admit that payment has been received. On the clearance of the cheque, a pucca receipt in Form Treasury Rule 5 can be sent to the party.

(f) Just like banking business, the Collection counter should close its transactions say by about 2 p.m. or 3 p.m. every day so that the Assistant who received the cash would close the Day Book and after tallying the total cash with the total as per the Day Book, would hand it over to the Officer Incharge concerned. The Officer Incharge should acknowledge the receipt of the cash and cheques and the Remittance Slips in the Day Book and should arrange to write up the Cash Book, a specimen of which is indicated in Annexure 9.

(g) In order to keep a watch over the clearance of the cheques, a "Register of cheques received and adjusted" indicated as in Annexure 10 is to be maintained. If a cheque is received dishonoured, necessary entries in the Day Book, "Register of cheques received and adjusted" and the Cash Book, should be made. The entries in the Cash Book should be written back and an intimation slip to the party concerned should issue on the same day asking the party to remit the demand in cash. A copy of the intimation slip should go to the ledger section where the ledger account of the assessee will be suitably posted.

(h) Two sets of 'Day Books' should be kept so that they can be used on alternative days. On receipt of cash and Remittance slips, the person in charge of 'Cash Book' should write up. The total collections as per the 'Day Book' are to be entered in the 'Receipt side' of the Cash Book as the day's receipts. Immediately thereafter a 'Classified Abstract' showing the detailed

classification of the receipts from each assessee should be posted from the remittance slips. A form of classified Abstract is in Annexure 11. The day's total receipt under the various minor and detailed heads should be struck and after tallying the total of all such minor and detailed heads with the day's total receipts, a consolidated challan should be prepared showing the detailed classification and the amount remitted into the Treasury/Bank. This remittance should be done either on the same day or on the day next to the day of receipts. On the payment side of Cash Book necessary entries should be made and the challan obtained from the treasury will form the necessary vouchers. If, however, a cheque is returned dishonoured, besides keeping a note in the 'Register of cheques received and adjusted', the entries in the Cash Book should be reversed as mentioned in subpara (g) above. A contra reference to the fact of dishonour should also be given in the 'Day Book'.

(i) At weekly intervals the officer-in-charge of the collection counter should review the 'Register of cheques received and adjusted' and investigate cases, if any, which are outstanding without being honoured for a long time.

(j) Soon after the remittance of cash into the Treasury, the remittance slip which should bear the challan No. and date of deposit into the Treasury have to be passed on to the 'ledger section'. The Day Books should be returned to the 'Collection Assistants' for use every alternate day.

4.10. *Personal Ledger Accounts—*

The most important aspect of the reorganisation scheme is the maintenance of a separate ledger account for each assessee. As and when demand notices are issued, the assessee's account should be debited and reference to the debit in the ledger account should be indicated in the Remittance slip before it is issued to assessee along with the demand notice. The ledger account should be kept in sufficient details indicating the nature of demand etc. Soon after the 'Remittance slips' are received back from the Cash section evidencing the payment made, necessary checks are to be exercised before credit is given for such payments in the ledger account. If further action is to be taken for levy of interest for belated payment etc., the remittance slip should be passed on to the concerned section for further necessary action. The fact of remittance by the assessee should also be kept in the 'order sheet' of the assessment records. A specimen form of ledger account is shown in Annexure 12. After final action is taken on remittance slips (foils), they should be pasted to the counter-foils and kept in records.

If due to rectification of errors, appeal revisions etc., demand already realised becomes refundable, besides issuing a 'Demand Notice' to the

assessee informing him of the refund due, the remittance slip should be passed on to the ledger section instead of being despatched to the assessee so that necessary minus debits or credits as the case may be could be afforded to the account.

As often as possible the ledger account should be closed and whatever balances are due to assessee in respect of finalised assessments should be refunded. At the close of each financial year an analysis should be struck below the account showing the details of the oustanding amount before carrying the balance to the next years' account. The balance outstanding at the end of the year in each account should be communicated to the assessee concerned and the confirmation regarding the balance obtained.

From the details of the closing balance analysed at the close of each year, an arrear sheet should be prepared for statistical purposes to ascertain the total arrears outstanding. The arrear sheet should provide necessary columns to indicate the dues outstanding year-wise.

In cases where revenue is realised through certificate proceedings, or from persons who own moneys to assessees etc., the procedure set out above has to be followed. All moneys paid towards incometax (except deductible from salaries and from interest on securities at source, which has to be adjusted to the revenue head through book adjustment) should be received by Collection counter, the Treasury Officer/Bank being entrusted solely with the receipt of the remittances from the department.

The total as per the 'Classified Abstract' referred to in sub-para (h) of para 4.9 for a month under the various minor and detailed heads should be reconciled with the Treasury figures and the totals communicated to the Commissioner of Income-tax who will arrange to reconcile the figures for the circle as a whole with the audit figures every month.

4.11. So far as refunds are concerned, the present procedure of issue of refund vouchers presentable at the Treasury/Bank for encashment can continue. The advice memos, on receipt from Treasury/Bank, should be posted in the Register of Daily refunds and in the Personal ledger Account. At the time of issuing the refund voucher, a note should be kept in the personal ledger account so that it would be co-related when the advice memo regarding encashment of the Refund voucher is received. The note at the time of issue of refund voucher would prevent double refunds. A common complaint is that the advice notes are not sent to the Bank simultaneously with the issue of the Refund orders to the assessees. This causes great inconvenience to the assessees. In order to ensure that there is no lapse in the matter, a perforated tear-off advice memo should be printed with each Refund order so that it can be filled up and despatched simultaneously.

4.12. *Safeguard—*

The above is only an outline of the scheme and necessary safeguards in the use of Receipt Books, Remittance Slip Books, have to be provided

for. This system besides simplifying the existing complicated procedures regarding collection, remittance and reconciliation of the tax dues paid into the Treasury, offers a great facility to assessee. The personal ledger account for each assessee will enable the department to keep a close watch on the demands dues from or refunds due to assessees. The correctness of the balances is secured by communicating it to each assessee and obtaining his confirmation at the close of each year. At a glance, one can find out the position of arrears in respect of demand and collections can be dispensed with without sacrificing any efficiency in the system. To ensure the success of the schemes the following should be insisted upon.

(a) Receipts in the collection counter should not be utilised for any departmental expenditure.

(b) Writing of Day Book, Cash Book, Remittance Slip Book, Classified Abstract and personal ledger account should be prompt and accurate.

(c) Revenue realised in a day should be remitted into the Treasury/ Bank the same day or next working day positively.

(d) The assessees should be encouraged to look into their personal ledger accounts as often as possible and settle their accounts periodically.

(e) An efficient internal audit system would go a long way to make the system sound.

The system of collecting the revenues due by the departmental authorities themselves is nothing new and such a system is already in vogue in Electricity and Water Works Departments. After the experimental system stabilises, necessary changes to effect refunds through cheques can be introduced. As an experimental measure the scheme can be tried in big cities like Bombay, Calcutta, Delhi, Madras, Hyderabad, Kanpur and Ahmedabad in the first instance and thereafter the scheme can be extended to other centres as well.

4.13. *Appellate Procedure—*

It has been represented to us that one of the factors causing harassment to assessees is that even when they win their cases before the Appellate Assistant Commissioner, the Department withholds rectification of the assessment and the refund of the money due as a result of the appellate order. It was also complained that appeals were filed to the Tribunal against the Appellate Assistant Commissioner's orders in a routine manner and with a view to holding back refunds arising from Appellate Assistant Commissioner's orders.

We found on investigation that only a part of this complaint is correct viz., appellate reductions are not given effect to promptly, but the other part, namely that appeals are preferred to the Appellate Tribunal in a routine manner by the Commissioners is not borne out by facts. Annexure

13 shows the number of appeals filed by the Department to the Tribunal and the number of appeals filed by the assessees to the Appellate Tribunal. This recalls that the number of departmental appeals is only 1/5th of the assessees' appeals and, therefore, it cannot be stated that the Department is filing appeals in a routine and thoughtless manner to the Appellate Tribunal.

4.14. *Suggestion for an Arbitration Tribunal—*

Under the present appellate procedure, even though the Appellate Tribunal is the final court of appeal for disputed facts, in many cases, reference applications are filed in the High Court by converting questions of fact into questions of law. An analysis was made of the cases reported in the Incometax Reports for the year 1963 to 1966 and it was found that the total number of cases decided by the High Courts and Supreme Court, 53.86 per cent related to facts pertaining to determination of income and only 46 per cent related to pure questions of law. To reach finality, it takes many years in such cases and consequently, inconvenience is caused both to the assessee and to the Department. In order to remove this difficulty it has been suggested to us that where there is no dispute as to facts or where the dispute lies in a narrow campus, the dispute between the assessee and the Incometax Department may, with the consent of both the parties, be referred by the Commissioner of Incometax to a separate Arbitration Tribunal called the Incometax Arbitration Tribunal after the decision of the Appellate Asst. Commissioner.

4.15. *Procedure before the Arbitration Tribunal—*

The procedure before this Tribunal should be somewhat as follows—

(i) The reference shall be accompanied by the assessee's case and the Incometax Department's case, signed respectively by the assessee or his authorised representative and the Commissioner of Incometax.

(ii) The Arbitration Tribunal may require the parties to submit a supplementary statement of facts and the parties shall comply with the requisition as early as possible.

(iii) The Arbitration Tribunal shall have all the powers conferred upon the Appellate Tribunal by or under the Act.

(iv) The Arbitration Tribunal may, in its discretion, refuse to entertain the reference but otherwise its decision in respect of the dispute shall have effect as if it was an award under the Arbitration Act; but it shall not be filed to a Court for its enforcement but it shall be given effect to by the Commissioner of Incometax in the case out of which the dispute arose.

(v) Notwithstanding its decision, the Arbitration Tribunal may, in a suitable case, make recommendation to the Incometax Department to give such relief to the assessee as it may consider just or equitable.

Reference to the Arbitration Tribunal may be made as soon as the matter is disposed off by the Appellate Assistant Commissioner. Thus, the time and the cost involved in going through the regular appellate procedure namely through the Appellate Assistant Commissioner, Appellate Tribunal, High Court and the Supreme Court may be saved to those assessees who would like to have cases settled through arbitration. We would strongly recommend the acceptance of this suggestion which we are sure will be of great help both to the assessees and to the Department.

4.16. Section 257 empowers the Appellate Tribunal to draw up a statement of case and refer it through its President direct to the Supreme Court in cases where a reference application is made to the Appellate Tribunal for referring to the Supreme Court any question of law on which there is a conflict of decisions of the High Courts.

Even though this power has been in the statute book for the past six years, it has been rarely exercised by the Appellate Tribunal uptil now. It is desirable that to avoid delays, the Appellate Tribunal should be requested to exercise this power more freely in future.

4.17. *Advance Ruling—*

It has been suggested to us that the Board should issue advance rulings on tax problems referred to it by the assessees so that they may know before hand the extent of liability on the result of any particular transaction entered into by them. We are informed by the Central Board of Direct Taxes that the difficulty in giving advance rulings on hypothetical problems is that the transactions as they finally emerge may be different from the facts given to the Board for eliciting the advance rulings and that if an Incometax Officer takes a different view on the facts before him, there might be unnecessary disputes between the Incometax Officer and the assessees. While we appreciate this difficulty we would suggest to the Government that in the bulletins now published for public sale, a column may be introduced for 'questions and answers' and tax payers may be invited to pose their questions and an editorial committee consisting of the technical officers of the Board may give the answers without committing the Department. This, we think, would be a more suitable way of helping the assessees and building up public relations. In this connection, we wish to point out that there has not been adequate publicity to the Bulletin issued by the Director of Inspection (R.S.&P.) and the sales of the Bulletin are pitifully small. It is, therefore, necessary that the bulletin should be issued in the form of a fullfledged journal as the Company Law Board does, and should have a separate Editorial Board. It may be priced reasonably so that every assessee can afford it.

4.18. *Functional Scheme—*

A major break through in streamlining the procedures of the Department with a view to achieving greater efficiency has already been made

by the introduction of functional distribution of work in the Incometax Offices. The scheme broadly consists in dividing a range into three units—the Administration unit, the Assessment wing and the Collection wing. The Administration Unit and the Collection Wing are put in charge of Incometax Officer whereas the Assessment wing is in charge of the range head viz. the Inspecting Assistant Commissioner assisted by selected Incometax Officers. We feel that the scheme as such is good and is bound to be of success, provided greater care is taken to achieve perfect co-ordination between the three branches and impediments to mobility of files are removed.

4.19. *Suggestions to cut out unproductive work—*

There are a number of time-consuming procedures which the Department could usefully cut out by introducing—

(a) time saving devices; and

(b) eliminating infructuous work.

Some of these are listed below—

(a) *Writing addresses on notices, forms etc.*—For every assessment the name and address and status of assesse has to be written at least 40 times. Starting with the order-sheet and the notice under sec. 139(2), name and address are hand-written on letters of appointment, on assessment forms, on envelopes, on notices of demand and on challans for payment of taxes. Even assuming that it takes, say, three minutes to write out these particulars once, the time spent on this repetitive job is colossal.

Considerable time could be saved by using addressing machines which are now manufactured in our country. The forms generally required for assessment work would be kept duly addressed in a folder with the assessment record. This would ensure accuracy in address and avoid waste of loose forms. The chances of tampering with names on challans etc. would be nil. In the Incometax Officer's office, duly addressed forms would be handy with every assessment record and the enormous clerical work involved in writing out names and addresses will be saved.

The addressographs available in the market are versatile machines and allow for correction and variation in the same plate. Selection of plates at the time of printing is also possible so that one could have selection in printing names category-wise or status-wise.

The introduction of addressographs is the starting point for any mechanisation as it ensures accurate "Input" information. When computers are brought into use, these machines will play a very useful role in ensuring correct recording of assessee-identification in the absence of which records may go hay-wire. Furthermore, with the introduction of Optical Scanning Machines which replace manual punching of cards or making of

magnetic tapes as "Input", addressographs will be found still more useful as Optical Scanning Machines can only read specially printed matter for which addressographs are quite appropriate.

The cost of using this machine per assessee per year is not expected to exceed 15 paise, though the initial investment of some Rs. 22,000 per unit of plate making and printing for a Commissioner's charge would be necessary to change over to the new system in a phased programme. A pilot project for using addressographs in the four major cities of Bombay, Calcutta, Delhi and Madras is immediately recommended.

Incometax communications being private and confidential, use of window envelopes and "slot and tongue" folders of the kind popularly associated with Life Insurance Offices should be avoided in the interest of good public relations. If addressed envelopes are made available to the office, any attempt to use such short-cut methods will become unnecessary.

(b) *Calculating machines and other mechanical aids*—At present much of the time of the staff is spent in columnar totalling of registers pertaining to Demand and Collection, Daily Collections etc. **The use of simple India-made Facit machines costing approximately Rs. 1,500 each is recommended for every charge Incometax Officer.** Mention must be made of the need for adequate supply of other office equipment which is at present very deficient, like punching machines, pencil sharpeners, stapling machines, scissors, gummed tape etc. etc. In view of the need for economy, the use of franking machines is not being recommended here. In any case, the dak for postal despatch coming out of an Incometax Office is small apart from statutory notices which are sent through notice servers. Hence franking machines can have only a limited utility for Incometax Department.

(c) *Verification of Employers' returns with the help of computer*—All employers are required under section 206 of the Incometax Act, 1961 to furnish within 30 days of 31st March each year a return of tax deducted on salaries and to pay the same to the credit of Government. The verification of such returns is generally done by clerks, consumes much time and is almost every where in arrears. In certain charges where this job has been taken up on computers the position is better. **The verification of returns under section 206 is a potential source of revenue and arrangement to have this done immediately in all charges on computers is strongly recommended.** But care has to be taken that no retrenchment is made on account of introduction of computers.

(d) *One hearing once a year for all pending proceedings*—In the office of the Incometax Officer, there is no consolidated record of the actions pending in a file at a particular time. When an assessee is present before the Incometax Officer, the officer is not in a position to dispose of all pending matters at one sitting as all matters are not fixed for hearing. He normally issues notices as many times as there are proceedings pending.

Not only are small cases of regular assessment for different years not taken up together, but even proceedings for penalties and remand report enquiries about recovery of taxes and routine verification of payment—intimation slips are separately taken up for the same person resulting in considerable avoidable addition to clerical work-load apart from causing inconvenience and even annoyance to the public. The office could avoid clerical labour involved in issuing separately as many notices as there are pending proceedings, in despatching them and in keeping track of acknowledgements etc. The notice-server also has to make several trips depending upon the number of times a file is taken up. This avoidable work could be cut down and stationery conserved by making it incumbent on the Assessment Clerk to maintain for each file a sheet showing actions pending in that particular file before a case is fixed for hearing so that notices are simultaneously issued for a consideration of various proceedings which could be disposed of in one sitting. The Inspecting Assistant Commissioners may ensure that Incometax Officers attend to pending matters generally in one hearing and do not call taxpayers indiscriminately to the Incometax Office.

(e) *Eliminating office-copy of notices*—Several forms of notices are in use for intimating to assessees adjustment in the date of hearing, time allowed for payment of tax etc., etc., and a copy of such notices is kept on record. It would suffice if a simple entry in the order-sheet records the issue of such intimation which is generally printed in the form of a post-card, office-copies being maintained only for communications of a more important nature sent to the public. For simple communication to Departmental officers like those requesting verification of tax payment in another treasury only a gist of the communication on the order-sheet would suffice.

4.20. *Simplification of Interest Calculation*—

Difficulties are experienced in the matter of calculation of interest under the various provisions of the Incometax Act which at present are to be calculated for every day of the penalty and calculated to the nearest rupee. Such calculations become complicated and much time of the Department may be saved without any risk to loss of revenue if such interest calculations are made not with reference to the day of penalty but with reference to the complete months. The interest should also be calculated on the nearest Rs. 100. If the amount is less than Rs. 50, it should be omitted and if it is more than Rs. 50, interest should be calculated rounding it off to the nearest Rs. 100.

4.21. *Rounding Off*—

Section 288A of the Incometax Act provides rounding off of total income to multiple of Rs. 10 and section 288B authorises calculation of tax, interest, penalty or refunds in whole rupee to eliminate paise from aggregated final figures. Even though the purpose of sections 288A and

288B is to simplify calculation of tax, the process of rounding off the total income to the multiples of Rs. 10 and then requiring the apportionment of the adjustment so made between earned and unearned income involves a complicated calculation. **It is therefore, recommended that each head of income should itself be rounded off to multiple of Rs. 10. Similarly, all deductions for relief, such as, life insurance premia or G.P. Fund, should be rounded off to the nearest multiple of Rs. 10.**

4.22. *Reopening cases to be avoided where petty amounts are involved—*

A number of assessments are at present being reopened for rectification of mistakes pointed out by both internal and external audit. It has been represented to us that if the revenue involved in the mistake is less than Rs. 50, no action should be taken for starting re-assessment proceedings. **We agree with the view and we suggest that the concurrence of the Comptroller and Auditor General of India may be obtained that where the revenue effect involved is less than Rs. 50, the assessment made should not be reopened.**

4.23. *Writing up of registers and preparation of Statistical Returns—*

Much time of the Incometax Officer is now being taken up in much odd miscellaneous work, such as, furnishing statistical returns under his signatures to the higher authorities and writing up the Demand and Collection Register. This difficulty is automatically solved in offices in which the functional scheme of distribution of work has been introduced, because in a functional office it is the administrative Incometax Officer who is responsible for these statements and registers. **But in non-functional circles the work still has to be performed by the assessment Incometax Officer and we suggest that till the functional scheme is introduced throughout India, the maintenance of the registers and signing of the statements should be the responsibility of Inspector or the Supervisor attached to the Circle.**

4.24. *Discontinuance of unnecessary Registers and Returns—*

At present, the number of registers in use in the Incometax offices is 56. **Out of these, the registers given in Annexure 14 are not necessary and should be discontinued.**

Similarly, **out of the scores of statistical returns, 34 are found to be unnecessary and can be discontinued.** A list of statistical returns so considered superfluous is given in Annexure 15.

CHAPTER V

NEEDLESS COMPLEXITIES IN THE TAX LAWS AND SUGGESTIONS FOR REMOVING THEM

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5.1. *Need for restraint in moving amendment to the I.T. Act—*

Complexity in tax laws is as much due to the complicated provisions therein as to the number of times these Acts are tinkered with. It was because of the fact that the Indian Incometax Act of 1922 came in for a good deal of criticism by courts and commentators that the amendment made from time to time to that Act, were too often framed without sufficient regard to the basic scheme upon which the Act originally rested, that the Law Commission was entrusted with the task of drafting a new Act. It was hoped that when the 1961 Act was passed, some kind of stability would be introduced in the Incometax legislation, but that hope has been belied by subsequent events. The total number of amendments made to the Incometax Act, 1961 during the past 5 years exceeds the total number of amendments made during the eighteen year period from 1944 to 1961. The total number of amendments made came to nearly 400 and these have introduced the same illegality and confusion to remove which the new Act was drafted. The first step in removing complexity, therefore, is to cry a halt to further amendments at least for a period of five years. When in future, any amendment is proposed to the Incometax Act, it should be done only after a careful survey of the total effect of the amendment and after considering carefully the need for carrying out the amendment. No amendment should be proposed merely to get round an adverse decision of the Supreme Court or a High Court. Further, whenever, amendments are considered necessary they should not be proposed through the Finance Bill because the Finance Bill is not referred to the Select Committee and the Members of Parliament do not have adequate opportunity of studying the various provisions. All amendments, in future, it is suggested should be carried only through a separate Direct Taxes Amending Bill.

Likewise, before rules are amended or framed, they should be done only after ascertaining the need for amendment from all the Commissioners of Incometax and after eliciting the views of leading professional and trade bodies, such as, the Institute of Chartered Accountants, the Federation of Chamber of Commerce and Industry and the Associated Chamber of Commerce.

5.2. *Previous year—standard previous year for companies—*

Coming to the provisions of the Incometax Act which create unnecessary complexity, almost the first provision which strikes the eye is section 3 defining the *"Previous Year"*. Under the Incometax Act, the charge is levied on the income earned in the previous year, but the definition of the previous year is so complicated that it is impossible for any

one other than an expert to understand the provision. This complicated method of defining a "Previous Year" has arisen on account of the fact that every assessee is given the right to follow a separate previous year for every source of his income. It has been held judicially that even for a head office and a branch of a business, an assessee can have two previous years. Secondly, the number of previous years that can be permitted under the law, are as many as a trader could invent, subject to the only condition that whatever period of 12 months he adopts as a previous year, should end on a day prior to the last day of the financial year, in which the previous year falls. Adoption of diverse previous years leads to anomalous situations as pointed out by Shri Bhoothalingam in paragraph 5 of his interim report to the Government. It also creates difficulties in cross-verifying transactions between two assessees following two different previous years. It makes it difficult to forecast with any reasonably accuracy budgetary receipts. Having regard to these defects, Shri Bhoothalingam has suggested that the very concept of previous year should be abolished and that the tax year itself must be the accounting year. We put this suggestion to many officials and non-officials for their reaction. Most of them pointed out, and correctly that this suggestion was nothing new in that prior to 1922 the provision in the Incometax Act was that incometax for any year was charged in respect of the income of that very year. This led to administrative difficulties because as assessment for any year was to proceed before the close of the year. Before the income of the year could be ascertained the previous year's income had necessarily to be taken as a measure with a provision for subsequent adjustment. Thus, in every case, instead of one, two assessments were involved. It was with a view to removing this difficulty that the All India Incometax Committee of 1921 recommended that the income of the previous year should be taken as the basis for levy. **By adopting Shri Bhoothalingam's suggestion we would be introducing the same complication and we are, therefore, not in favour of treating the tax year and the accounting year as co-terminus, by abolishing the previous year concept altogether.**

5.3. The problem, in our mind has to be tackled in a different way. That way lies in introducing a uniform standard previous year for all assessees instead of permitting every assessee to have his own previous year or previous years, if every assessee is compelled by law to return his income on the basis of the standard previous year, much of the confusion and complexity would automatically disappear, and tax statistics would suffer much less distortion than they do at present. If the assessee were to return his income on the basis of the standard previous year, it would necessarily follow that he must maintain his accounts also on the basis of the same previous year; otherwise, complications will ensue particularly when stock-valuations are involved. For example, if an assessee is maintaining his accounts on the basis of the Dewali year beginning from 1st of November and ending with the 31st of October and if the Standard

previous year is determined as the calendar year or the financial year, he has to work out proportional income for this standard previous year and such an income would not be correct unless stock valuation is taken with reference to the last day of the standard previous year. This will throw unnecessary burden on the assessees and the Department also may not find it easy to verify the correctness of the income returned.

5.4. Though the ideal, thus, is to have a standard previous year both for maintenance of accounts and returning income we are conscious of the difficulty that this changeover will involve in the cases of lakhs of assessees who have been adopting a particular pattern for the past many years. Further, Chartered Accountants who are engaged by assessees to audit their accounts and file I.T. returns will find it difficult to adjust their programme of audit if accounts of all assessees were to close on a given date. **We would, therefore, suggest that a beginning may be made by applying this standard previous year for the corporate sector only, most of whom are even now generally adopting the calendar year or the June year. It will, therefore, be easy to change over if the standard previous year is taken as the calendar year. We, therefore, recommend that Section 3 of the Incometax Act, 1961 may be amended accordingly.**

5.5. *Omission of the category 'Not Ordinarily Resident'—*

The next provision of the Incometax Act creating unnecessary complication is section 6(6) defining a "not ordinarily resident" for individual and H.U.Fs. On the basis of certain tests laid down in the Incometax Act, assessees are categorised as (1) Resident (2) Non-resident and (3) Resident but not ordinarily resident. The last category, namely Resident but not ordinarily resident, was introduced for the first time in 1939 for the specific purpose of enabling two sections of people to have some tax concessions. They were (i) the European officials or traders who came to India for a brief stay either for career or for business and (ii) the Indian traders abroad who had an ancestral home in India which they might visit irregularly.* To cover this category of persons a very involved way of defining their status was introduced, viz., that a person in order to qualify as "not ordinarily resident" should not have been resident in India in 9 out of 10 previous years preceding the previous year or should not have been in India for a period of 730 days or more during the seven years preceding the previous year. This category of assessees derived a double benefit. Their foreign incomes were not taxed unless derived from a business controlled from or a profession set up in India or unless the foreign profits were brought into India. Further, the rate of tax applicable to the 'not ordinarily resident' was determined on the basis of that income whereas in the case of resident as well as non-residents, the world income formed the basis. The question whether there was any justification for continuing this special treatment for a particular section of assessees was examined

* Para 36, page 15 of the report of the Income tax Investigation Commission.

by the Incometax Investigation Commission, Taxation Enquiry Commission and also the Law Commission. All the three Commissions clearly declared against the continuance of this category of persons. The Income-Tax Bill, 1961 gave effect to this recommendation but at the Select Committee stage the category of "not ordinarily resident" was restored but the special privilege enjoyed by them in regard to the liability was removed by making them liable in the same manner as that of a non-resident. **The present position, therefore, is that a "not ordinarily resident" pays** tax on the Indian income plus that portion of the foreign income derived from a business controlled from India or a profession set up in India at the rate of tax applicable to the total of these two but his other foreign income is not taxed nor taken for finding out the rate of tax. A resident, on the other hand, pays tax on the entire global income, both Indian and foreign. In the case of a non-resident, he pays tax on all income which accrues or arises to him in India or is deemed to accrue or arise to him in India.

5.6. It will, thus, be seen that the "not ordinarily resident" is still treated in a more favourable position than a resident. The way the definition is worded, a person gets this advantage if during the immediately preceding eight years he continues to be resident but he was a non-resident in the 9th year, beyond the said period of eight years. Again even if he was a resident for all the 9 years but if he had managed to be in India for less than 730 days during the past seven years, he escapes liability in his foreign income other than a business or professional income as aforesaid. This creates an anomalous situation, not justified by the circumstances now existing. Secondly, it is not easy to determine whether a person is 'not ordinarily resident' or not, unless one examines events covering nearly 15 previous years. **Having regard to the equities of the case and also the administrative difficulties involved, we recommend that section 6(6) may be deleted.**

5.7. *Company in which public are substantially interested—*

A third provision which requires simplification is in relation to that category of Companies called "Companies in which the public are not substantially interested."

Under the Companies Act, companies are classified into—public companies, private companies, holding companies and subsidiary companies.

These definitions are well known and well understood and have been judicially interpreted. However, for the purpose of the Incometax Act, besides public and private companies, a third category falling in between the two has been introduced viz., "the companies in which public are not substantially interested". These companies may be either private companies or public companies, as defined in the Companies Act. The criteria to determine whether a company is one in which the public are not substantially interested are laid down in section 2(18) of the Incometax Act.

The tests laid down are complicated and incapable of correct application unless the Incometax Officer goes through the process of examining the shareholding of the company during every day of the previous year. For example, the very first test to find out whether a company is one in which the public are substantially interested is to see whether shares carrying not less than 50 per cent of the voting power have been allotted unconditionally to or acquired unconditionally by and were throughout the relevant previous year beneficially held by..... the public. The expression "throughout the relevant previous year" clearly stipulates that the shareholding must be construed with reference to the position, every day, of the previous year. We are certain that no incometax officer can undertake this exercise and hence the test laid down had become more or less academic. Secondly, a good deal of litigation* has been generated on the meaning of the world "public" as used in this clause. The substance of the definition is that a few persons should not be in a position to influence the decisions relating to the distribution of dividends by virtue of a controlling interest in the company but in this process, even genuine public companies can be classified as controlled companies.

5.8. *Historical Background*—

In order to appreciate the background in which this category was introduced, it is necessary to look into the history of this provision. A Bill was introduced in 1927 to prevent the evasion of super tax through one-man companies and firms. It is said that this Bill was introduced mainly to meet the case of the Late Sir David Yule. Sir David had formed a number of one-man companies between 1917 and 1921. By preventing these companies from distributing their profits, Sir David succeeded in avoiding super tax to a very large extent. Therefore, the Government came forward with a Bill which was ultimately passed as Indian Incometax (Amendment) Act (XXI of 1930) which introduced in Section 4 thereof the new Section 23A of the Incometax Act of 1922. The following extract from the Statement of Objects and Reasons of the Bill will be of interest in this connection—

> "The Government have been considering for some time in consultation with the commercial community and the officers of the Incometax Department, the best methods of rendering illegal certain practices, now legal, which are adopted by persons desirous of evading the payment of Incometax and super tax, and this Bill proposes to give the taxing authorities the necessary powers to check such evasion.

Broadly speaking, the proposals in the Bill were—

(a) to define a 'firm', 'partner', and 'partnership' in the same sense as in the Indian Contract Act, 1872;

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* (Raghuvanshi Mills Vs. C.I.T. 41 ITR 613).

2. Tatem Steam Navigation Co. Vs. C.I.T. 24 T.C.57.

(b) to give discretion to the Incometax Officer to treat as separate assessees the individuals comprising any association carrying on business, or which only one member is competent to bind the association by his acts;

(c) to give the Incometax Officer discretion to treat the members of a company as separate assessees if the company restricts the right to transfer shares or limits the number of shareholders, exclusive of employees, to 50, or does not invite, or permit, subscription to its shares or debentures by the public; and is under the control of not more than five members. .....

...."

Thus, section 23A was introduced not only for assessing the shareholders of companies on undistributed profits but also for assessing other entities, such as, firm, or other association of persons carrying on business and the sole aim of that section was to see that super tax was not avoided by the individual members of such associations, whether incorporated or not. By a series of amendments this concept of company in which the public are not substantially interested was made to serve purposes other than for which it was invented. Thus, for example, if a company in which the public are not substantially interested makes an advance or a loan to a shareholder having a substantial interest in that company, that loan or advance is treated as a dividend. If a company is one in which the public are not substantially interested, Section 79 of the Income-Tax Act, 1961 imposes restrictions regarding the carry forward of its losses. A major differentiation made between public companies and the companies in which the public are not substantially interested is in regard to the levy of incometax. The companies in which the public are not substantially interested bear generally 10 per cent more tax than public companies.

5.9. These provisions would suggest that the companies in which the public are not substantially interested are equated to private companies. **If so, it would avoid a lot of complication if instead driving the Incometax Officer to find out whether every company is one in which public are not substantially interested the straight-forward distinction between a private company and a public company is introduced in the Incometax Act. These two expressions are well understood in legal and commercial circles and a certain uniformity of interpretation can also be gained as between the provisions of the Companies Act and the Incometax Act.**

5.10. Adoption of this suggestion may lead to a question as to whether the Government has to give up its right to take extra tax from controlled public companies when such companies do not distribute dividends among the shareholders thereby helping them to avoid super tax. A short answer to this question is that the Legislature itself has given up to a large extent the extra revenue realisable from the application of sections 107 to 109 of the Incometax Act, 1961, corresponding to section 23A of the Act

of 1922. As the provisions stand today, manufacturing companies and such other companies as are notified by the Central Government are completely exempt from the provisions of this section. The section has limited application only to trading companies. Even there, thanks to a recent Supreme Court judgement[1*] the provisions of section 107 have been rendered inapplicable if the trading results in which even capital losses should be computed show that it would not be possible to apply this section. In spite of this if it is applied, the company has a right to approach the Board for getting a lower percentage than what is prescribed. The distributable income itself has been so defined as to exclude many slices of income so that ultimately very little revenue comes from the application of this section as it stands today.

Further at the time when Section 23A was introduced, there was a marked difference between the tax payable by the individual (because of graded super-tax) and the tax payable by a company. Now the maximum tax payable by a private company and by an individual is the same, viz., 65 per cent. Though the maximum is 65 per cent in the case of individuals, the effective average rate is less than this, so that even if the element of surcharge is taken, the net difference between the tax payable by a private company and by an individual will not be significant. **The result is that the original purpose for which this section was introduced no longer justifies the continuance of this category of companies.** In this connection, it may be relevant to point out that out of 26,000 companies in India, a little over 20,000 companies are private companies and only about 2,500 are those in which the public are not substantially interested. **Therefore, by abolishing this category and retaining the distinction between a private and a public company for all the purposes for which a distinction is required to be made between public companies and companies in which public are not substantially interested, may not result in any appreciable loss of revenue. On the other hand, it may save administrative cost to Government in the time and the labour an Income-tax Officer spends for conducting investigation in every case whether it fulfils the test laid down in section 2(18). If in spite of this it is still thought necessary to have a distinction between controlled companies and non-controlled companies, this can be achieved by substituting a much simpler distinction for the existing one in section 2(18). This can be done by retaining section 2(18)(b)(i) and deleting the other sub-clauses. Essence of control is in this sub-section.**

5.11. *Registration of Firms—*

In the Incometax Act, a distinction is made between registered firms and unregistered firms in regard to the determination of the tax liability on firms and partners. In the case of a registered firm, the total income of the firm is determined, but tax is levied in the hands of the partners on the basis of the share incomes determined in their individual cases. The

1*. C.I.T. West Bengal Vs. Gangadhar Banarjee & Co. (57 ITR 126).

registered firm also pays a nominal tax under para (c) of the 1st Schedule to the Finance Act. This tax ranges between 6 and 12 per cent and is based on the total income of the firm. A rebate is given for the tax so paid by the firm to each partner in proportion to his share in the tax paid by the firm which is expressed in a very complicated way in section 86(iv).

In the case of an unregistered firm on the other hand, the firm pays tax on its total income at the rates applicable thereto and the share income is added to the other income of the partners to find out the income-tax rate at which the rest of the income is to be taxed. Thus, for example, if a firm of four equal partners has a net profit of Rs. 1 lakh and the whole of it is earned, if it is an unregistered firm, it has to pay tax of Rs. 43,313 whereas if it is treated as a registered firm, total tax payable both by the registered firm and by the four partners together works out to Rs. 22,604 (firm Rs. 7,260 plus 4 partners Rs. 15,344). Thus, there is a huge difference in liability between two firms similarly situated and with equal partners merely because one firm is registered by the incometax Department and the other is not. The Incometax Enquiry Commission of 1939 felt that such a distinction was unwarranted and observed as follows—

> "In the case of partners in registered firms, the provisions of section 48 clearly import the equitable consideration that the rate of taxation of partnership profits should depend upon the total income of the individual entitled to such profits and we see no reason why this should not be aimed at in the case of other firms also. It is inequitable that it should be possible for two firms each earning say Rs. 5,000, each with 3 equal partners, to be so differently dealt with that no tax is payable by one of them while the other is charged Rs. 156 by reason of non-registration."

They, however, permitted the retention of the distinction mainly for a procedural purpose, viz., the opportunity it gives to the Incometax Officer to find out which are genuine firms and which are not. It is for this purpose that rules have been framed providing for the submission of an application accompanied by an instrument of partnership for registration setting out the shares of the partners and signed by all the partners. It is in the application of these rules relating to registration that both the assessees and the Department find themselves locked up in legal battles mostly on technical matters. So far in a majority of cases the results of such legal disputes have always ended in favour of the assessee. The Department has, therefore, found that the line of least resistance now is to allow registration wherever it is applied for. However, so long as the provisions of law relating to registration are there, namely, that there should be an application for registration and that application must be made within a prescribed time limit accompanied by the instrument of Partnership, there has to be separate proceedings for admitting the application by the

Incometax Officer. If there is a refusal to admit registration, the assessee gets a right of appeal to the Appellate Assistant Commissioner and the entire process to be gone through results in waste of time and expenditure of money both to the assessee and to the Department.

5.12. In the circumstances, it has been suggested to us that the distinction between the registered firms and unregistered firms should be abolished and tax should either be charged on the firm on its total income or it should be charged from the partners on the basis of their total income including the share income ignoring the existence of the firm. We have examined both these suggestions but have found them unacceptable. If the former course is adopted, it would lead to evasion of tax by big assessees floating a number of firms and paying much less tax through the firm than what they would have to pay on the totality of their share incomes. If the latter course is adopted, it will lead to claims being made that a particular income was from a partnership even though in fact there would have been no partnership at all.

Having regard to these risks, we suggest **that all cases of firms which are constituted under an Instrument of Partnership and registered with the Registrar of Firms under the Indian Partnership Act, should be automatically treated as registered firms without an application therefor being made under the Incometax Act and without holding a separate proceeding for registration as is in vogue at present. This can be achieved by amending the definition of a registered firm as follows—**

> **"Registered firm means a firm constituted under an Instrument of Partnership specifying the individual shares of the partners and registered with the Registrar of Firms under section 59 of the Indian Partnership Act."**

This change would reduce litigation as well as paper work and will lead to a reduction in irritation to assessees.

5.13. *Tax paid by Registered Firm to be allowed as a deduction—*

A related question is with reference to the method by which the rebate for tax paid by registered firms is to be given in the hands of the partners. Section 86(iv) dealing with the manner in which the rebate is given in the hands of the partners for the tax paid by the registered firm prescribes a complicated process as follows—

> The amount which represents the difference between—
>
> (a) the assessee's share in the total income of the firm and
>
> (b) his share in such total income as reduced by the incometax payable by the firm,

the share in either case being computed in the manner laid down in Section 67. **This complication can be removed and simplification achieved if the tax paid by the registered firm is allowed as a deduction from the**

total income of the firm and the balance income distributed among partners for purposes of imposing tax liability on their total incomes.

5.14. *Basis of Tax on Registered Firms to be altered—*

In the case of the registered firms, the tax is levied under paragraph (c) of the First Schedule to the Finance Act on the basis of the total income of the firm. The present rates are—

Basis of Tax on Registered Firms to be altered

(*i*) Income not exceeding Rs. 25,000	Nil
(*ii*) Income exceeding Rs. 25,000 but not exceeding Rs. 50,000.	6% of the amount by which the total income exceeds Rs. 25,000.
(*iii*) Income exceeding Rs. 50,000 but not exceeding Rs. 1 lakh.	Rs. 1,500 plus 8% of the amount by which the total income exceeds Rs. 50,000.
(*iv*) Income exceeding Rs. 1 lakh ..	Rs. 5,500 plus 12% of the amount by which the total income exceeds Rs. 1 lakh.

To tax registered firms on the basis of the income would not be as appropriate as to tax them on the basis of the number of partners because the revenue advantage a registered firm gets, increases in direct proportion to the number of partners constituting the partnership. **We, therefore, suggest that the tax must be levied on registered firms on the basis of the partners and not on the basis of the income. For this purpose, we suggest the following rates—**

(a) Partnerships with four or less persons as partners ... 10%

(b) Partnerships with more than 4 partners and less than 8 partners 12½%

(c) Partnerships with more than 8 partners 15%

The percentages recommended by us are higher than the existing percentages of tax. This is because of amount of tax benefit the registered firms get is considerable and as a consequence there has been a phenomenal rise in the number of such firms as the following figures would indicate—

TABLE 9

Year	No. of firms	Total income assessed (in lakhs of rupees)	Total Tax paid (in lakhs of rupees)
1959-60	14179	11247	354
1960-61	15396	12754	414
1961-62	17712	14870	487
1962-63	30137	19741	779
1963-64	33741	20498	934

5.15. *Depreciation—*

Another area where complexity prevails relates to depreciation. Under section 32 of the Incometax Act, 1961 depreciation for wear and tear of building, machinery and plant and furniture is allowed at the rates specified on a schedule given in Appendix I to the Incometax Rules. For this purpose, buildings are classified into 4 categories—first class, second class, third class and purely temporary constructions—and different rates have been prescribed for the first three categories whereas costs of renewals of purely temporary constructions are allowed as revenue expenditure.

For machinery and plant, a general rate of 7 per cent is prescribed and specific rates are prescribed for nearly 169 categories. Even then, this list is not exhaustive and many a question has arisen as to what should be the rate in regard to the machinery employed in particular industry, for example, in the case of automobile industry, no specific rate has been prescribed in the Schedule with the result that the Working Group understands that different rates are adopted by the three automobile manufacturers in India. In addition to this, the rules also provide for the grant of double shift allowance and multiple shift allowance in the case of factories which work two or more shifts, and the calculation of this depreciation for extra shifts is again done in a complicated manner by taking the total number of working days as 300 and allowing proportionate depreciation thereto on the basis of the normal rate. Added to this, initial depreciation is admissible on certain types of buildings. When an asset is sold, destroyed, discarded or demolished, a terminal allowance is also given to the assessee in respect of that portion of the cost which would have been admissible to him as depreciation, had the machinery not been sold, discarded, demolished or destroyed.

There are certain conditions prescribed for granting this depreciation namely that certain prescribed particulars should be furnished by the assessee and the total depreciation on all counts should not exceed the actual cost of the asset to the assessee. The calculation of depreciation and the conditions prescribed therefor are so complicated that the incometax officers have been found to have committed the largest number of mistakes in these calculations. The total revenue in under assessments relating to depreciation alone as reported by Public Accounts Committee and further found on review by the Department amounted to nearly Rs. 240 lakhs during the period 1962 to 1967. That the Government itself is aware of this fact is clear from the Budget speech of the Finance Minister while moving the Budget for 1966-67—

> "The rate schedule of depreciation allowable in respect of buildings, furniture, plant, machinery etc., has become highly complicated. It is necessary to review the position in the light of the recent development and to make appropriate changes so that the schedule may be both rational and simple."

A step in the direction of rationalisation would be to replace the existing rates by introducing consolidated rates on an industry-wise basis. The existing rates vary from 2½ to 40 per cent. These can be regrouped and consolidated on an industry-wise basis at the following rates:—

Existing rates	*To be consolidated to*
1. 2½%, 5%, 6%	5%
2. 7%, 7½%, 8%, 9% and 10%	10%
3. 12% and 15%	15%
4. 18%, 20% and 25%	20%
5. Between 20% and 40%	30%

Subject to the condition that the actual depreciation to be allowed will be limited to the actual amount written off in the accounts.

The re-grouping on the basis of industry may be done with reference to the grouping given in the Industrial Development and Regulation Act and in consultation with the trade and professional bodies, such as, the Federation of Chambers of Commerce and Industry and Institute of Chartered Accountants. The general rate for machinery should be raised to 10 per cent from the existing 7 per cent. All assets the original cost of which is less than Rs. 1,500 should be allowed as revenue expenditure. The present method of allowing petty depreciation on these items is time consuming and profitless.

5.16. *Books to be excluded from Plant.* 2. *Seasonal Factories*—

One of the anomalous provisions in the Incometax Act is that the expression "plant" is defined to include books so that depreciation is being allowed in the case of books at the general machinery rate. It is high time this anomaly was removed and purchase of books allowed as a revenue expenditure where such purchase is proved to be wholly, exclusively and necessarily for the business or profession.

In the case of seasonal factories, depreciation should be allowed taking the season as a full year. If such a seasonal factory has worked for more than half the season, full depreciation should be allowed: if it has worked for less than half the season but more than one month, half depreciation should be allowed and if it has worked for less than one month, no depreciation should be allowed.

5.17. *Straight Line method not preferred*—

As regards the method of allowing depreciation, majority of the officials and the non-officials have represented to us that the straight line method should be adopted instead of the written-down value method that is now in vogue.

The written down value method was introduced in 1939 on the recommendation of the Incometax Enquiry Committee of 1936. Before 1939, the Department was following the straight-line method, but that method was found to be defective because it made it a matter of great difficulty to keep track of the various items of plant purchased on different dates and of the years in which they should drop out of the depreciation computations by reason of the full 100 per cent allowance having already been made. The written down value method, on the other hand, automatically secures that the aggregate allowances can never exceed 100 per cent.

The Direct Taxes Administration Enquiry Committee which examined this issue felt that the written down value method conformed closest to the accepted principles of accountancy and is followed in many countries. They also pointed out that since the larger part of the cost was written off in the initial years, the risk to the business or industry was also considerably reduced. **We entirely agree with this view and we do not, therefore, suggest any variation in the method to be followed for allowing depreciation.**

5.18. *Salary-option for standard deduction—*

One of the provisions of the Incometax Act which suffers frequent amendments is that which relates to computation of salary income. The assessment of salary involves the simplest of operations in most countries but in India, the provisions are so intricate that in a big salary case particularly of an employee of a company, as much time is taken for assessing it as an assessment of a business case. Under the Act as it stands today, the following deductions are enumerated as permissible for determining the income under 'salary'—

(a) For purchase of books upto a maximum of Rs. 500.

(b) In respect of any allowance in the nature of Entertainment Allowance specifically granted to the assessee by his employer subject to several conditions and limits.

(c) Professional tax.

(d) For expenditure incurred in the maintenance of a conveyance owned by him and for normal wear and tear of the conveyance.

(e) Any amount wholly, exclusively and necessarily incurred by the assessee in the performance of his duty, provided incurring of such expenditure flows from the conditions of employment.

At present moment, any assessee who claims expenditure on any of these items, is required by law to produce proof of such expenditure and this becomes particularly a maddening exercise when one claims expenditure on account of maintenance of a conveyance. Secondly, an unjustifiable distinction is made between a person who incurs transport

charges in connection with his employment but does not maintain a conveyance, and a person who incurs the same expenditure but maintains a conveyance. The former does not get any deduction, whereas the latter gets a deduction from the salary. Thirdly, a majority of the salaried assessees whose income is below Rs. 15,000, does not incur any of these items of expenditure and these provisions are inapplicable in their cases.

Having regard to these factors, we suggest that an option should be given to all salaried assessees to claim a straight deduction of 10 per cent of the gross salary instead of claiming itemised expenditure and proving them before the Incometax authorities. This straight deduction should be given in the same manner as allowance for repairs of house property without insisting on proof of expenditure. This straight deduction of 10 per cent should be in addition to the deduction they are entitled to for the life insurance premia, provident fund contributions, etc., and should be taken into account while deducting tax at source.

5.19. *Income from property-notional income to be given up—*

In the case of income from property, the present method of taking the gross annual value at a hypothetical figure viz., what the property would fetch from year to year, is lending itself to unnecessary litigation. The Department is avoiding such a litigation by taking in practice either the actual rentals received or the municipal valuation whichever of the two is greater.

This practical approach can be brought into the enactment itself by providing in section 23 **that the gross annual value of the property should be either the annual rental receivable or the municipal valuation of the property whichever of the two is greater. From this, deduction should be given for the full municipal tax, instead of half, as at present for properties constructed after 1.4.1950.**

5.20. *Expenditure not related to property not to be allowed—*

Under section 24(iii) and (iv), interest on mortgage or capital charge created on the property and any annual charge on the property is allowed as a deduction. This mortgage or capital charge may have been incurred for purposes totally alien to the construction or maintenance of the property as for example, marriage of a daughter. The annual charge, again, may be one not related to the property at all, as for example, alimony paid to a wife or a husband. The allowance of these expenses cuts across the basic principle of admissibility of deductions for income-tax purposes namely that only that expenditure which is incurred in earning the income should be allowed.

In the circumstances, we consider that it is unjustifiable to retain section 24(iii) and 24(iv) and the same may be deleted.

5.21. *Business Expenses—*

The position in relation to allowances of business expenses in the Incometax Act is that certain items of expenditure such as, rent, repairs, interest, bonus, bad debt payment to recognised provident funds, approved superannuation funds, depreciation, development rebate, scientific research expenditure, expenditure on family planning, etc., etc., are being allowed under certain enumerated clauses. These provisions are set out in sections 30 to 36. Over and above the enumerated items section 37 permits deduction of any expenditure which is wholly and exclusively incurred for the purpose of the business or the profession. This section makes it clear that only such expenditure, not being expenditure of the nature described in Sections 30 to 36, will be admissible under the residuary clauses. In spite of this, Courts have allowed certain items of expenditure barred by the enumerated Sections on the ground that these expenses are admissible under the omnibus clause.* Secondly, it has also been held† by the Courts that the enumeration relates only to expenses of overheads and that expenses and losses incurred before earning the gross business income are admissible under Section 28 itself (i.e. section 10(1) of the Income-tax Act of 1922). The enumeration of the expenses has, thus, not served any useful purpose but at the same time has led to a good deal of rigidity in their application by the Department and also attempts at inflation of such expenses by the assessees. Shri G. P. Kapadia, in his minority report appended to the Direct Taxes Administration Enquiry Committee has pointedly brought this out:

> "So far as the Department is concerned it wants to put as restrictive an interpretation as possible while the tax payer, on the other hand, seeks to put as wide an interpretation as possible. The result is litigation. Apart from this, the rigidity in allowing expenses automatically results in assessees making an attempt to inflate expenses. This is particularly so in cases where a particular portion, say $\frac{1}{2}$ or 1/3rd of the expenditure in respect of particular activities is allowed. The assessees make an attempt to debit more than the position warrants or the actuals justify. In the end, they get an allowance to the extent of what they would have spent and at the same time would be able to withdraw money in cash. This process results in a substantial amount going into the cash coffers with the result that all the consequential results follow."‡

In view of these we suggest that instead of enumerating the various items of expenditure, a single omnibus section may be inserted for allowing deductions for all losses and outgoings to the extent they are incurred for gaining and producing the assessable income or are necessarily incurred

* Badridas Daga Vs. C.I.T. (1958) 34 I.T.R. 10(SC).

† Bombay Steam Navigation Co. Ltd. Vs. C.I.T. (1965) 56 I.T.R. 52 (SC).

‡ Para 1, page 446 of the Report of Direct Taxes Administration Enquiry Com

in carrying on a business or profession for the purpose of gaining or producing such income except where such losses or outgoings are of a capital, private or domestic nature or are incurred in relation to the gaining or production of an exempt income. This is the method adopted in the Australian Act (Section 51) and it will introduce precision in our Act also. After putting in this omnibus clause, items of capital expenditure which are to be allowed on grounds of policy, such as depreciation, expenditure on scientific research, capital expenditure on family planning, patent and copyright fees, fees paid for technical know-how may be listed separately setting out the conditions and limitations therefor, expenditure of a revenue nature which is proposed to be limited, such as, the entertainment expenditure, expenditure on perquisites to employees may be spelt in another section. In this connection, we wish to point out that if it is decided to keep the limits now prescribed for the entertainment expenditure, it would be necessary to make it clear that entertainment expenditure for this purpose would include any payment made by way of entertainment allowance to employees for the purpose of entertaining company's guests.

5.22. *Computation of Exempt Profits to be based on Paid-Up-Capital—*

For the purpose of providing an exemption to profits of Industrial Undertakings, section 84 of the Incometax Act provides that Incometax shall not be payable by an assessee on so much of the profits derived from any new industrial undertaking as does not exceed 6 per cent per annum of the capital employed in such undertakings. Rule 19 of the Incometax Rules lays down an elaborate and complicated procedure for computing the capital employed. That the application of this elaborate procedure has not been understood properly by the officials of the Incometax Department is clear from the number of mistakes committed which has come to the notice of the Public Accounts Committee. **We suggest that with a view to simplifying the procedure and at the same time with a view to achieving uniformity, section 84 should be amended to change 6 per cent of the capital employed to 6 per cent of the paid-up capital of the company. This will also be a real and effective incentive for establishment of new industries.**

5.23. *Company and Dividend Taxation—*

Of the total revenue from direct taxation amounting to Rs. 467.76* crores the companies give the highest share i.e. Rs. 304.84 crores but in the field of company taxation, considerable complications have arisen on account of classifying these companies on the basis of the share holding for purpose of levy of incometax at different rates. Thus, for example, the companies are divided first into domestic companies and non-domestic companies. Domestic companies are again divided into those in

*Exeluding State's share of Incometax (1965-66 figures).

which the public are substantially interested and other companies. The companies in which the public are substantially interested are again divided into those with incomes of Rs. 50,000 or below and those with incomes exceeding Rs. 50,000. Companies in which the public are not substantially interested are classified into Industrial Companies and Non-Industrial Companies. Industrial Companies bear slab rates of tax where the total income exceeds Rs. 10 lakhs. For the non-domestic companies i.e. mainly foreign companies which do not have arrangement for declaring and distributing dividend in India, different rates of tax are prescribed for royalties received from Indian concerns in pursuance of agreement made after 31st March, 1961 and for fees received for rendering technical services received from Indian concerns in pursuance to an agreement made after May 29, 1964 and another rate for balance of the income.

The list narrated above would show the extent to which division been carried on in the matter of Corporate Taxes. **To our mind there can be considerable simplification in the matter of company taxation and it is not really desirable to have so many classifications of the companies in the Finance Act. We have already suggested that the category of company in which the public are not substantially interested should be abolished and in its place the expression of private companies should be substituted.** If this is done, there is no need to provide differential rates based on the total income of the company. The basic principle behind the step system or the slab system is that the tax is adjusted according to the individual's capacity to pay. In the case of a company the principle of progression has no meaning or purpose. **We, therefore, consider that all private companies should bear the same rate of tax on every rupee of income regardless of the total income and all public companies should bear the tax at a rate less than the rate prescribed for the private companies. Secondly, increasing the rate of incometax on a distinction based on the nature of the business carried on by a company i.e. whether it is an industrial company or trading company, introduces unnecessary complications. We suggest that if the Government desires to encourage formation of industrial companies, a more appropriate method would be to give them other concessions and subsidies than by giving them a concession in incometax. We are of the view that even the definition of an Industrial Company is not exhaustive so as to cover all similar activities. For example, in India, construction of buildings is an important industrial activity in the context of development plans. The definition of the industrial companies as given in the Finance Act does not include Engineering and Construction activities other than construction of ships. Therefore, we feel that a more comprehensive enquiry is needed in this regard and a specific scheme should be evolved to encourage formation and development of such companies rather than to attempt to provide a tax incentive.**

5.24. *Mitigation of Double Taxation of Dividends—*

Under the present law, while a company distributes a dividend. it has to deduct tax at 22 per cent before it pays dividend to the shareholders. The tax so deducted is credited to the Government account and is treated as tax paid by the shareholders and necessary credit is afforded to him at the time the dividend is assessed to tax in his hands. Except where the recipient is a company, the dividend is taxed at the full normal rate as applicable to his total income including the dividend. In case where the recipient of dividend is a company, the dividend received which is called inter-corporate dividend incometax was charged at a concessional rate vide Section 85(a). With effect from 1-4-1968, in the case of such inter-corporate dividend only a portion will be taxed. For example, in the case of Domestic Companies the amount to be taxed will be only 40 per cent of the dividend received. It has been suggested to us that the taxation of dividends in the case of shareholders other than companies, involves double taxation in that the same profit undergoes taxation first when it is earned by the company and is taxed again when it is received by the shareholders. On the other hand, if the same business was held by a firm, the profit would suffer tax only once, depending upon whether the firm is a Registered Firm or Unregistered Firm. On this ground, it is argued that the total tax liability borne on profits earned through a company is far higher than the total liability borne when such profits are earned through formation of other entities, and, this discourages capital formation. To remedy this position. it has been suggested that either the amount of dividend paid by the Company should be deducted from the total income of the Company and the balance alone should be taxed or the dividend received by a shareholder should be completely exempt when the full profit out of which the dividend is paid, has borne the tax. Those who suggest the former method, cite example of Greece, where only undistributed profits are taxed in the hands of the Company and distributed profits taxed in the hands of shareholders. Those who hold the latter theory cite example of Ireland, where no tax is paid by a shareholder on dividend received except where a shareholder is liable to surtax. While we feel that there is an element of double taxation in taxing companies' profits, we consider that the solutions suggested run counter to the theory of companies being distinct and separate legal entities enjoying certain concessions and privileges arising from incorporation. Further, exempting the shareholders from taxation of dividends or taxing only the undistributed profits of a company will result in considerable loss of revenue, which in the present context, we can ill-afford to countenance. Moreover in many European countries the system of relief for dividend is so worked out as to allow a certain. percentage deduction from the gross dividend in the hands of the shareholders. This is similar to the treatment we give to intercorpo-

rate dividends in India. Thus, for example, in Finland an individual may deduct 15 per cent of the amount of dividend for taxation and in France all shareholders receiving dividends from French companies get a tax credit of a certain percentage. We consider that either the same method can be adopted in India for giving relief to shareholders other than companies, or in the alternative, on the distributed profits of a lower rate of tax may be imposed while assessing the company and full normal tax recovered from shareholders, whether such shareholders are companies or individuals. If the latter course is adopted, the present method of allowing a deduction from intercorporate dividend would have to go.

5.25. *Bonus Shares*—

At present, bonus share are not taxed as dividends in the hands of a shareholder unless the declaration of bonus shares is accompanied by a release of the assets of the company declaring the bonus shares. [Section 2(22)(a)]. In the Finance Act of 1964, provision was made for bringing bonus shares under the capital gains levy, but later on, by the Finance Act of 1966 this provision was omitted. The present position, is that bonus shares are not taxed at all, even though in substance they are nothing but the shareholder's share of dividend converted into capital. In Australia, issue of bonus shares consequent on capitalisation of profits is brought to tax and the following is the provision in the Australian Act—

> "Dividend includes any distribution made by a company to its shareholders, whether in money or other property and any amount cerdited to them as shareholders and includes the paid-up value of shares distributed by a company to its shareholders to the extent to which the paid-up capital value represents a capitalisation of profits." (Section 6).

It is high time we gave up the practice of not taxing bonus shares as dividend unless they were accompanied by a release of assets by the company. It may be argued that taxing bonus shares might act as a disincentive for investment in companies, but we have recommended in para 5.24 supra that where companies distribute dividends, there should be a tax concession on the distributed profits. That would be a sufficient inducement for investment in companies and therefore in that context we do not think that taxing bonus shares will in any way affect capital formation.

5.26. *Section 2(22)(e) to be amended*—

Section 2(22)(e) provides that when a loan or advance is given by a controlled company to any shareholder having substantial interest in the company, the loan or advance will be treated as dividend to the extent of the cumulated profits held by the company.

It has been reported to us that difficulties have arisen in the application of this provision where more than one such shareholder gets a loan or advance from the company. The question that would arise then is the

apportionment of the amount for being taxed as dividend. In order to solve this difficulty, we suggest that the law may be amended to provide that in such cases the amount to be assessed as dividend in the hands of shareholder should be proportionate to their shareholding in the company.

5.27. *Deduction from Dividend Income—*

In the case of dividends, section 57 provides for deduction of any reasonable sum paid by way of commission or remuneration to any person realising the dividend and any other expenditure laid out wholly and exclusively for the purpose of earning the income. This enables an assessee to get deduction for all types of expenditure, such as establishment expenditure, repairs and rents of premises, which hardly have any relevance to collection of dividends. The dividend partakes of the same character as "interest on securities" and, therefore, we suggest that no deduction other than what is permitted for 'interest on securities' should be allowed on dividends also. Accordingly, section 57(iii) may be amended to exclude from its scope dividends and section 57(i) should be amended to permit interest on capital borrowed for investment on shares in addition to commission paid for realising the dividends.

5.28. *Simplification of Personal Taxation—*

Under the Finance Act, for calculating tax payable by assessee other than companies, registered firms and co-operative societies, slab rates of tax have been laid down the tax rates increasing progressively over nine slabs reaching up to Rs. 70,000. Further, an exemption is laid down which is Rs. 7,000 for H.U.Fs. and Rs. 4,000 in every other case. If the income exceeds this exemption limit, the average rate of tax is worked out by splitting the income with reference to the slabs provided and applying the rates referable to each slab. From the tax so computed, a deduction is allowed of specified amounts ranging between Rs. 145 and Rs. 260 depending upon whether the assessee is a married individual with dependent children and parents or not. After this deduction, the net tax is further increased by surcharges on unearned incomes exceeding Rs. 15,000 and earned incomes exceeding Rs. 1 lakh. The resultant figure is further increased by surcharge equal to 10 per cent of the tax so arrived at.

All these operations are complicated and there is ample scope for simplification in this regard.

5.29. *Raising Exemption Limit not Favoured—*

One method of simplification suggested to us is to raise the exemption limit from Rs. 4,000 to Rs. 7,500. We, however, fail to see how raising the exemption limit would simplify the various tax calculations which we have set out. Whatever be the exemption limit, the processes of arriving at the average rate of tax, giving deduction of a specified amount therefrom and increasing the net result so arrived at the surcharges will continue

to be operative wherever tax calculation has to be done. Secondly, as we have pointed out in Chapter II, raising the exemption limit is not advisable particularly when we want to build up a pervasive tax consciousness among the public.

We, therefore, do not endorse the suggestion to raise the exemption limit. However, we are not unmindful of the fact that having regard to the fall in the value of money and the high cost of living, there is need for tax relief. This can be achieved by providing suitable personal allowances in every case. We, therefore, suggest that every individual should get a personal allowance of Rs. 5,000 (Rs. 3,000 for self, Rs. 1,000 for wife and Rs. 500 for each minor child, limited to two children). In the case of H.U.Fs, the personal allowance should be Rs. 2,000 for every adult member subject to a maximum of Rs. 10,000. If this is done, the deductions mentioned in clause (ii) to the provisio to paragraphs A of the First Schedule to the Finance Act of 1967 may be altogether committed and this will, thus; result in one step less in tax calculation. Secondly, having regard to the personal allowance we have provided for, there is no need to set out a separate exemption limit. Omission of the exemption limit removes a second step in tax calculation.

Thirdly, we suggest that the first four slabs in the First Schedule should be combined to one slab reaching up to the total income of Rs. 20,000 (before allowing the personal allowance of Rs. 5,000). For this slab, a basic standard rate of tax should be applied which having regard to the high personal allowance we have given, may be fixed at 15 per cent. Incomes above Rs. 20,000 may be divided into four slabs as follows—

(1) Between Rs. 20,000 and Rs. 30,000.

(2) Between Rs. 30,000 and Rs. 50,000.

(3) Between Rs. 50,000 and Rs. 75,000.

(4) and in excess of Rs. 75,000.

For these four slabs, in addition to the basic standard rate of 15 per cent suitable percentages as may be decided by the Government having regard to consideration of resources may be fixed. We, however, feel that if the general surcharge is to be retained, the maximum rate at the highest slab should be retained at the existing level i.e. 65 per cent.

5.31. *Omission of Distinction between unearned and earned income and Surcharges—*

The distinction between earned income and unearned income is unreal, as pointed out by Shri Bhoothalingam in paragraphs 3.1 to 3.3. of his Interim Report and should go and along with it, the special surcharge also. Further there is no justification, in our view, for penalising earned income above Rs. 1 lakh by imposing a surcharge thereon. The omission of these two surcharges will facilitate simplification of calculation of tax.

The loss in this regard may be made good by increasing the general surcharge by a flat addition of 2½ per cent to the existing 10 per cent.

5.32. *Deletion of Annuity Deposit and Provisions relating to Tax Credit Certificates*—

Shri Bhoothalingam in paragraphs 2.1 to 2.5 of his Interim Report has argued convincingly against the continuation of the annuity deposit scheme. **We are in entire agreement with the view expressed by him.** Apart from the various points made out by Shri Bhoothalingam the scheme has not brought to the Exchequer the amount anticipated from it, as can be seen from the following figures relating to Budget Estimates and Actuals for the three years—

TABLE 10

(in crores of rupees)

	Budget	Actuals
	Rs.	Rs.
1964-65	67·00	40·28
1965-66	71·50	39·21
1966-67	44·61	32·35

For the purpose of the issue of the annuity deposit certificate and management of the scheme the following remuneration is paid to the Reserve Bank and the State Bank of India—

(i) Fee at Rs. 1,000 per crore.

(ii) Actual expenses on account of advertisement, telegrams, trunk calls, printing and stationery.

(iii) Commission at 1/16 per cent on the deposits received by State Bank of India and its subsidiaries.

For management of the scheme—

(i) Commission at Rs. 2,000 per crore per annum on the decreasing principal amount of the annuity deposit certificate.

(ii) Establishment charges, cost of stationery and miscellaneous expenses incurred.

If the cost to the Incometax Department is also taken into consideration, the cost of collecting annuity deposit is significantly on the high side. For the assessees it has proved a source of irritation and we suggest that the scheme must be given up forthwith. If, however, the Government desires to have a compulsory scheme of saving, the compulsory deposit scheme introduced in 1963 by the present Deputy Prime Minister is far simpler in its operation and provides also a lump sum to the assessee at the end of the five-year period unlike the driblets that come from the annuity

deposit year by year. **We suggest the replacement of the Annuity Deposit Scheme by the compulsory deposit scheme for all assessees with income above Rs. 15,000.**

5.33. *Tax Credit Certificate Schemes—*

There are, at present, five tax credit certificate schemes as follows—

(1) for stimulating exports (Sec. 280-ZC).

(2) for encouraging the production of certain goods liable to Central Excise Duty (Sec. 280-ZD)

(3) for providing an incentive to individuals and Hindu Undivided families for investing in newly floated equity shares of certain companies (Sec. 280-Z).

(4) for enabling expansion of industry to companies engaged in important industries (Section 280-ZB).

(5) for facilitating the shifting of industrial undertakings from urban areas (Sec. 280-ZA).

The schemes framed under these sections are so complicated in their operation that the purpose of providing an incentive for the purposes stated has generally been defeated.

That the schemes have not fulfilled the purpose for which they were framed is seen from the following figures relating to Budget Estimates and Actuals—

TABLE 11

Year	Scheme	Budget Estimates	Actual Payment
		Rs. lakhs.	Rs. lakhs
1965-66	Export Scheme	500	5·40
	Equity Shares	1·60	Nil
1966-67	Export Scheme	1970	823
	Equity Shares	43	Nil
	Excise duty on clearance	75	0·01
	Corporation Tax Certificate	55	0·13

If the Schemes were less complicated and better publicised, perhaps, the results would have been better. In our view, it is because they got merged in the Incometax provisions, they suffered this fate, making the Incometax Act, in the process more complex. If the Government of India is keen on making a success of these schemes, these schemes should be framed in a simpler language and administered not through the Incometax Act but through the Ministry of Commerce who are handling all incentive schemes.

We, therefore, suggest that the provisions in sections 280Y to 280ZE may be deleted.

CHAPTER VI

TAX EVASION

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TAX EVASION

I

EXTENT OF TAX EVASION

6.1. *General*—

In the terms of reference we have been asked to examine the machinery of assessment and collection with a view to achieving greater efficiency in tackling tax evasion. A view is held that both 'avoidance' and 'evasion' fall ultimately in the same category resulting in loss of revenue to Government and placing an inequitable burden on the honest and straightforward tax-payer. The only difference between 'avoidance' and 'evasion' is that the former has the colour of legality while the latter is plainly contrary even to the letter of the law. However, the courts in India have held that there is nothing unjustifiable in avoiding tax so long as the Law allows it.* But even in U.K. where this dictum originated, it has come to be realised that avoidance is socially as undesirable as evasion *vide* the following observations of Lord Simon in the case of Latilla vs. C.I.R.—

> "Judicial dicta may be cited which point out that, however, elaborate and artificial such methods may be, those who adopt them are "entitled" to do so. There is, of course, no doubt that they are within their legal rights but that is no reason why their efforts, or those of the professional gentlemen who assist them in the matter should be regarded as a commendable exercise of ingenuity or as a discharge of the duties of good citizenship. On the contrary, one result of such methods, if they succeed is, of course, to increase *protanto* the load of tax on the shoulders of the great body of good citizens who do not desire, or do not know how, to adopt these measures."

We entirely agree with these observations. The Direct Taxes Administration Enquiry Committee made a number of recommendations pointing out the loopholes in the law which helped "avoidance" and the Government brought forward necessary legislative amendments to plug these loopholes. Owing to the limited time at our disposal, we have not launched an enquiry into further areas of "avoidance". We further feel **that avoidance is a problem which has to be tackled from experience in the administration of the Tax Laws and the Administration must be always on the watch and take immediate remedial measures as soon as they come up against attempts at avoidance.**

*C.I.T. Vs. A.S. Raman & Co. 67 I.T.R. 11 (SC).

6.2. *Extent of Evasion—*

There is a general impression that 'evasion' is wide-spread in India and this is the cause for the inelasticity of incometax revenues.*

Attempts at estimate of tax evasion started with the Report of Prof. Nicholos Kaldor in his "Indian Tax Reforms." He estimated the extent of tax evasion in India at Rs. 200—Rs. 300 crores a year even though before the Direct Taxes Administration Enquiry Committee he stated subsequently that this estimate of his included tax lost in avoidance as well. The Direct Taxes Administration Enquiry Committee felt that on an analysis of the final figures of national income and census of Indian manufactures, both the quantum of income estimated and the rates of tax adopted by Prof. Kaldor were very much on the high side and that the quantum of tax evasion though undoubtedly high, was not of the magnitude indicated by Prof. Kaldor in his Report.† The Direct Taxes Administration Enquiry Committee did not indicate the extent of evasion in India and the official and non-official versions of the extent have been varying. The Central Board of Direct Taxes had estimated that the tax evaded in any one year would be Rs. 20—Rs. 30 crores.† However, before the Public Accounts Committee which examined this issue, the representatives of the Board stated that it would not be possible to precisely estimate as to what would be the extent of concealment in India. The non-official estimates put the extent of tax evasion between Rs. 38 and Rs. 61 crores.‡ The non-official estimates proceed on the basis of national income statistics and on the assumption that the tax yield would increase at a faster rate than the national income.

6.3. One great defect in taking the national income as the basis is that the tax calculations of a particular year are taken to be the tax on the incomes generated in that year. It is common knowledge that all the assessment are not completed in the same year in which the income is earned; nor do the collections made in any particular year represent the tax relating to the income of that year. It would, therefore, not be correct to rely on these figures for finding out the relation between the growth of national income and the growth of tax revenues.

6.4. *Dimensions of the Problem—*

An idea of the dimensions of the problem can be had if we look into the figures of concealed income detected by and disclosed to the Department during the past two decades. The concealed income of the years 1940 to 1946 was the subject matter of investigation by the Incometax Investigation Commission. In respect of the cases referred to it, the Investigation

*G.S. Sahota—Indian Tax Structure and economic Development—pages 41 to 51.

†Para 7·5 of the Direct Taxes Administration Enquiry Report.

‡Shri Jacob Eapen in his paper on Incidence of Tax and Tax Evasion submitted to the Second All-India Conference of Tax Executives gave an estimate of Rs. 38 crores, whereas Shri Sahota gave the estimate of Rs. 61 crores.

Commission found out that a concealment of Rs. 48 crores on which the tax evaded was Rs. 30 crores. Under the voluntary disclosure scheme of 1951, Rs. 70 crores were further disclosed by the assessees and they paid tax and penalty of Rs. 11 crores. These figures by themselves give a total concealed income of Rs. 118 crores and evaded tax of Rs. 41 crores for a period of about 11 years. Considering the fact that all the cases were not investigated by the Commission, nor all the assessees made voluntary disclosures of their concealed incomes, it can be said that the concealed incomes and the tax evaded were very much more than what the figures suggest. In the past four years from 1963-64 to 1966-67, a total amount of Rs. 80.76 crores of concealed income has been detected by the Department on which the total tax and penalty amounted to Rs. 30.44 crores.

6.5. In 1965, two voluntary disclosure schemes were introduced by the Finance Act of that year—the first was introduced by the Finance Act No. 1 of 1965 and was in force for a period of three months. During this period, 2001 persons made voluntary disclosures of their concealed incomes amounting to Rs. 52.19 crores, the tax on which at the 60 per cent prescribed rate came to Rs. 38.80 crores. In the second disclosure scheme, the disclosures were made by 1,13,628 persons and the concealed income disclosed was Rs. 145.51 crores on which the tax also roughly amounted to Rs. 20 crores. The comparatively smaller amount under the second scheme was due to the fact that the tax was calculated by treating the disclosed income itself as the total income and, further, a large number of persons who gave disclosures in the second disclosure scheme were persons falling in the middle income groups. Besides the above, under the provisions of section 271 (4A), 1,900 persons have so far made voluntary disclosures surrendering a concealed income of Rs. 21.76 crores. **These figures indicate that tax evasion is a perennial problem and has to be fought by spotting out the sectors where this evasion is concentrated.**

6.6. *Evasion Sectors—*

From an analysis of the figures detected by the Department and the various voluntary disclosure schemes, we find that a major part of this evasion is concentrated in the higher income groups. This is evident from the fact that in the first voluntary disclosure scheme where the tax payable was 60 per cent, 2,001 assessees had disclosed an income of Rs. 52.19 crores giving an average of Rs. 2,60,000 per assessee. In the second disclosure scheme, the amount disclosed was Rs. 145 crores, but the number of persons who gave disclosures was 1,13,628. Here the average disclosure is about Rs. 12,850 only. The persons who came under the first scheme had incomes which attracted a rate of tax which was higher than 60 per cent. To attract a tax of more than 60 per cent, the total income must be above Rs. 50,000. So almost every case here was a case falling under the higher income group where the total income exceeded Rs. 50,000. In the second voluntary disclosure scheme, tax was levied at the rates prescribed

in the 1965 Act on the total disclosed income of Rs. 145.51 crores. Under this scheme, the tax levied was only Rs. 18.27 crores. Considering the income disclosed and the tax demand raised, the majority of the tax payers here would fall in the middle and the lower income groups. A study of the figures of the action taken under the normal provisions of the income Tax Act relating to concealment also confirms this.

6.7. Therefore, our conclusions on this point are:—

(a) **There is unmistakable evidence of practice of tax evasion in the country and in spite of several measures taken by the Government, this continues on a disturbing scale; and**

(b) **the evasion is concentrated in upper income brackets and it is relatively insignificant in the lower income brackets.**

II

CAUSES OF EVASION

6.8. *High rate of taxation not proved to be the main cause of evasion*—

Before the remedies to combat evasion are formulated, it will be necessary to know the causes of evasion. In this connection, it has been represented to us repeatedly by many witnesses that high rate of personal and corporation taxation in India, non-enforcement of the penal sections of the Incometax Act vigorously in cases where concealments are detected, disinclination on the part of the authorities to prosecute assessees in whose cases documentary evidence proving concealment is available and pervasive flow the unaccounted money which compels certain transactions to be kept out of the books, are all responsible for tax evasion in this country. Of the reasons listed, much emphasis was sought to be laid by many of the non-official witnesses on the high rate of taxation being the prime cause of evasion. As a theoretical proposition, one may concede that higher the rates of taxation, the higher is the gain by evading tax. However, it is often forgotton that there is a cost even for evading and keeping evaded income and if the cost of evasion is higher than the gain from it, the rate of taxation by itself would not be a motivating factor causing evasion.

A study of the figures of detected concealed incomes shows that at least in India, an increase in the rate of taxation was not followed by an increase in the tax evasion nor a decrease in the rates has brought about a higher tax responsiveness.

6.9. Therefore, we endorse the view of the Direct Taxes Administration Enquiry Committee that the tax rates by themselves are not to blame for the large extent of evasion in the country. The real reasons for tax evasion appear to us to be as follows: —

(a) *Inflation*—The general depreciation of money owing to inflation:

Prof. Ramon P. Diaz of the University of Republic of Uruguay has observed:—

> "It is undeniable that tax fraud does become increasingly profitable as inflation accelerates and higher taxes have to be instituted in an attempt to bridge the expenditure gap, in its turn brought about by the sluggishness of revenue. Furthermore, once evasion begins to grow, thereby making fiscal receipts even more inert, the need to raise taxation is heightened and the premium on tax delinquency 'pari passu' enlarged, and so on, in a vicious circle."*

The result of inflation is that the money values of things go on rising. If, therefore, it is possible to evade tax and acquire any asset, its value will rise in future. This acts as an incentive for resorting to evasion on an increasing scale in an inflationary economy.

(b) *Concentration of contracts, licences etc.*—During the period of three Five Year Plans, the Government expenditure on development projects, setting up of industrial plants and other constructional activities were of such a magnitude that a few established business houses were able to obtain the contracts and were able to make huge profits from these contracts. The money so amassed was utilised, in turn, for acquiring quotas and licences, real property and other assets even by paying premium. Such transactions began to be kept outside the books so as to save the parties to these transactions from taxation.

(c) *Evasion of other tax liabilities*—Evasion of the liability and obligations imposed by other statutes, such as, the Sales Tax Act, Foreign Exchange Regulations Act, Import Trade Control Regulations, Customs Act, Central Excise Act, etc., have contributed to accentuate evasion and accumulate untaxed wealth. In many cases, the primary aim is not so much the evasion of incometax as the evasion of liabilities and duties imposed under the other Acts. For example, in the case of Sales Tax, the liability to Tax depends upon the turnover irrespective of the fact whether the net result of the business is a profit or a loss. For incometax, liability will be attracted only when there is a profit. Assuming that a trader has a turnover of Rs. 10 lakhs (the net result being a loss), it would be advantageous for him to save sales tax by suppressing the turnover by say 50 per cent. If he reduces his turnover for the sake of evading Sales Tax that helps him in the matter of Incometax also as it will correspondingly raise the figures of his loss which will be deductible from the income of the subsequent years. This will take the corresponding amount of the suppressed sales to the pool of evaded cash with him. Likewise, a manufacture producing excisable articles would have a temptation to save a part of his production from the Central Excise duty net and though here the prime motive may not be evasion of incometax but incidentally, by keeping the transaction outside the books, he evades incometax as well.

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*(Quotation from a paper on Incidence of Tax and Tax Evasion by Shri K. C. Khanna).

(d) *Operation of controls*—The operation of Controls and emergence of on-money for controlled commodities have also contributed to accumulation of evaded incomes. Many of the items of short supply, such as, sugar, G.I. sheets, coal, etc., have been under statutory control, both as regards price and distribution, and owing to the shortage of these commodities, a practice of taking on-money has developed. Such on-money, if recorded in books, would be punishable under the several control orders. Therefore, the necessity to keep them out of the account books has contributed to the evasion of Incometax and taking such money to the pool of the black money. Similar is the case in regard to non-controlled items such as, motor cars, scooters, trucks, etc., on which high premiums are due to short supply. Both the purchaser and the seller conceal such extra amounts and evade Incometax thereon.

(e) *Social attitude*—The general social attitude to taxation in India has also been conducive to tax evasion. While in the Western countries, tax evasion is regarded as a social crime by society, in India it is regarded as a feat of intelligence and cleverness evoking admiration.

(f) *Ineffective administration*—Last but not the least the Tax Administration has also been responsible in not devising adequate machinery for tackling tax evasion and not enforcing the penal and the prosecution provisions of Law adequately in cases where tax evasion is fully established. The following figures show the number of cases in which prosecutions were launched, from the year 1961-62 to 1965-66:—

TABLE 12

Year	No. of cases in which prosecution was launched	No. of cases which resulted in conviction
1. 1961-62	1	Nil
2. 1962-63	2	2
3. 1963-64	Nil	Nil
4. 1964-65	28	Nil
5. 1965-66	Nil	Nil

Out of 31 cases in which prosecution was launched during the period 1961-62 to 1965-66, only in 2 cases convictions were obtained. Two cases were compounded and the accused were acquitted in eight cases.

The performance of the Department has been so poor that the Public Accounts Committee was compelled to remark as follows in its 21st Report (1963-64)—Third Lok Sabha—

"In para 7.12 of its Report, The Direct Taxes Administration Enquiry Committee observed that though the Direct Taxes Acts provide for prosecution and imprisonment in the cases of concealment of income, not a single

person has been convicted for evasion during the last ten years, and recommended that unless it was brought home to the potential tax evador that attempts at concealment of income would not only pay him but also actually land him in jail, there could be no effective check against evasion. The Committee are not a little surprised to find that even though this recommendation has been accepted, Government sent for prosecution not more than one person in whole of the country during 1961-62 and that case too was compounded.

The Committee note the difficulties explained by the Ministry in launching prosecutions for concealment of income. The Committee are glad to be informed that the question of amending the law was under consideration. The Committee trust that an early decision in the matter will be taken. All the same, the Committee desire the Ministry to impress upon the Commissioners of Income Tax the advisibility of launching prosecutions in clear and glaring cases of deliberate large scale tax evasion in preference to imposing penalty, as the latter course is not deterrent enough to check evasion. The Board should also set up a well equipped departmental organisation for working cases for prosecution.

28*th Report* (1964-65)—*Third Lok Sabha*

The Committee feel that large sums have still not been detected and brought under the tax net, and there is considerable scope for improvement in the Department's operations in this respect."

6.10. *Avenues of utilising evaded money*—The following are the avenues for utilisation of the unaccounted money—

(i) Deposits with indigenous bankers i.e. those who discount hundies, with companies and firms in fictitious names or in the names of close relations.

(ii) Purchase of gold and jewellery and keeping them in safe deposit vaults or in secret vaults in the homes.

(iii) Purchasing without bills, raw materials and stocks for purposes of business or manufacture and selling the stocks so manufactured without bills, in due course.

(iv) Purchasing and hoarding of grains stocks with a view to selling them in a rising market.

(v) Purchasing quotas and licences illegally.

(vi) Purchasing smuggled goods to be re-sold without bills.

(vii) Payment of on-money towards purchase of land or house properties.

(viii) Payment of premium towards purchasing running concerns or controlling interest in flourishing companies.

(ix) Payment of "pugree" to secure residential properties.

(x) Utilisation of secret amount held in foreign countries for imports—under-invoicing such imports to the extent of such secret funds.

(xi) Purchase of unauthorised foreign exchange to meet expenditure on visits abroad.

(xii) Lavish household and personal expenditure.

(xiii) Meeting expenses on marriages, religious functions, and social parties.

(xiv) Payment of bribes.

The above list is not exhaustive but it indicates the channels into which the untaxed money is likely to be traced out so that any remedial measures we suggest may have reference to—

(a) The sources of untaxed monies; and

(b) the avenues of untaxed monies.

III

STEPS TO TACKLE EVASION

6.11. The problem of tax evasion in the opinion of the study group has to be tackled at three levels:—

(a) devising administrative processes and procedures to detect tax evasion;

(b) making suitable legislative provisions to prevent tax evasion in future; and

(c) arousing public conscience against tax evasion.

6.12. *Administrative measures*—

The persons who evade taxes fall in two categories—

(i) Those who are outside the net of taxation altogether; and

(ii) those who keep many of their transactions outside the tax gatherer's view.

The former category will include low income groups e.g., the numerous petty traders, shopkeepers etc. Apart from these small income groups which evade tax altogether it was found that in the first voluntary disclosure scheme out of 2001 persons, 191 persons were those who were not assessed to tax prior to the disclosure. This would mean that the total declarants were big assessees also who had not paid any tax earlier. Similarly, under the second voluntary disclosure scheme, 77,030 persons were those who had not been previously assessed to tax. **These facts fully establish the utility of intensive external and internal survey so that those who are escaping assessment may be brought to the Department's Registers.**

6.13. *External survey—survey circles*—

The Direct Taxes Administration Enquiry Committee had recommended that the survey circles should be reorganised and their staff augmented.

They had further recommended that with a view to securing that surveys are conducted on a regular and systematic basis special survey circles should be constituted in all important cities, headed by a Survey Officer manned by an adequate number of Inspectors and clerical staff. For larger cities like Bombay, Calcutta, Madras and Delhi it was suggested that an Inspecting Assistant Commissioner of Incometax should be placed exclusively in charge of survey work. Not only has this recommendation not been implemented, in some charges like Delhi, the Special Survey Circles themselves have been abolished. One of the reasons stated to be is that a good deal of confusion had been created on account of concurrent jurisdiction exercised by both territorial circles and special survey circles, and in some cases duplicate files were opened in both the Circles.

A further reason appears to be that the examination of returns in the survey circles was purfunctory and this has been taken advantage of by unscrupulous assessees who got away by filing returns in Benami names showing small incomes and getting the returns accepted by the Survey Officers.

These administrative difficulties are, in our view, not sufficient to justify the abolition of special survey circles. **The remedy should be to take measures to remove these defects rather than give up the system altogether. We are recommending in this Chapter that an all-India registration number should be given to each assessee. If this system comes into vogue, the difficulty about filing duplicate returns in two circles would not arise because when assigning a new number, sufficient preliminary investigation would have been made to find out whether the return was that of a fictitious person or of a genuine new case, and once a registration number is assigned, the same number will have to be transferred wherever the file goes. Hence, chances of keeping duplicate files would be greatly minimised if not completely eliminated.**

As regards initial scrutiny of the cases, we suggest that a team of Inspectors should be attached to the Survey Circles who would initially scrutinise returns carefully to trace the source of the capital to verify the extent of business transactions by suitable cross verification with the Sales-tax registers and then write a brief history of the case before putting up the file to the Special Survey Circle Officer. This would ensure that bogus returns are not filed.

With these safeguards we consider that the special survey circles would certainly play a very useful role in tracing new assessees while at the same time eliminating infructuous cases. **We accordingly recommend that for each I.A.C. range, a special survey circle should be created with a sufficient complement of two Inspectors under the charge of an Income Tax Officer. It will be the duty of the team of the inspectors to carry out a thorough door-to-door survey of the area and send up cases of assessees who are not borne on the G.I.R. In this survey, attempts should also be made to collect**

more facts and figures about the extent of business and source of income of existing assessees also so that all this information may be made use of at the time of the assessment. These cases should then be processed through the special survey circle and after the first assessment is over, they should be transferred to the territorial Incometax Officer.

6.14. *Special investigating branch—*

In this connection, a special mention has to be made about the role of the Special Investigation Branch attached to each Commissioner of Incometax. One of the duties of the Special Investigation Branch is to gather information about the existing and potential assessees from the records of the other departments, such as, Sales Tax Department, Foreign Exchange Directorate, Municipalities, Local Boards, Transport Offices, Sub-Registry, Postal Department, Railway Offices, Chambers of Commerce, Banks, Joint Stock Companies, etc. etc. After gathering such information, the Special Investigation Branch sends the information to the concerned Incometax Officer for being utilised when the assessments are made. Even if this is the sole or the main function of the Special Investigation Branch, its hands would be full having regard to the comprehensive nature of the work undertaken. But we find that the Special Investigation Branches are saddled with so many other duties and responsibilities that it is impossible for them to give adequate attention to the work of internal and external survey. Taking two examples, the duties of the Special Investigation Branch attached to the Commissioner of Incometax, Punjab, are set out below:

(i) All statistical work relating to the charge.

(ii) To coordinate and supervise investigations in cases where information has come on record regarding concealments, verification of information from various sources which is likely to lead to the detection of concealment.

(iii) Processing of anonymous and pseudonymous petitions against assessees and scrutinising the reports received from the I.T.O. in regard to the investigation of such petitions.

(iv) Issuing instructions to the various investigation officers.

(v) Arranging interviews with informers who give information leading to tax evasion.

(vi) Processing the information given by the Intelligence Wing.

(vii) Taking extracts from the weekly bulletins issued by the Controller of Imports & Exports and sending out to the Incometax Officer.

(viii) Attending to the formalities relating to grouping of cases involving detailed investigations in particular offices.

(ix) Gathering information from nearly 43 offices scattered over the area, falling within the jurisdiction of the Commissioner of Incometax.

To carry out this work, the Section has one Incometax Officer, two Upper Division Clerks, six Lower Division Clerks, one Steno and two Peons, with a Head Clerk who supervises both the Special Investigation Branch and the Statistical Section.

In Calcutta, the duties of the Special Investigation Branch are:—

(i) Attending to internal survey work.

(ii) Gathering information from various sources as detailed in the prescribed quarterly report submitted to the Directorate and sending them out to the Incometax Officers.

(iii) Compiling information relating to payments of dividends, payments made to contractors by the Government departments and sending them out to the various Incometax Officers.

(iv) Dealing with miscellaneous references from local and outstation I.T.Os.

(v) Dealing with anonymous petitions.

(vi) Following up cases of tax evasion, investigations in which are conducted under the guidance of the Board or the Director of Inspection (Investigation).

(vii) Liaison with Central and State investigating authorities.

(viii) Interviews with informers and payments of awards.

(ix) Search and Seizure work.

(x) Penalty cases where administrative approval of the Commissioner of Incometax is necessary, together with correspondence and references involving legal points arising out of such cases.

(xi) Prosecution cases.

(xii) Disclosure cases.

(xiii) Submission of several reports and returns in connection with the publication of the names of assessees.

It will be well nigh impossible for any single unit office to attend to such a variety of work. **So the prime need is to reduce and rationalise the workload of the Special Investigation Branch by transferring all external and internal survey work to the Survey Circles and enabling the Special Investigation Branch to function effectively as a coordinating Headquarter Section.**

6.15. *Internal survey—*

Internal Survey i.e. extracting information from the records of assessees and communicating such information to the concerned Incometax Officers has also been sadly neglected. In many of the files test-checked by us, the information available on record has not been extracted and sent out, and the information received from other Circles through the communication slips remained unverified. One of the reasons for the non-verification of the communication slips has been that the communication slips were filed in a folder different from the folder in which the returns and other documents

relating to the concerned assessment year were placed. It is not unlikely that these communication slips might have been initially bunched up and placed in the miscellaneous folder after the assessment proceedings had been completed with the result that the Income Tax Officer would not have had the opportunity of knowing the existence of these communication slips. Secondly, many of the communication slips merely mention the name of the assessee and the amount paid to him. The date is, more often than not, omitted rendering verification impossible.

6.16. We, therefore, consider that for effective utilisation of internal information, communication slips must provide for the following particulars:—

(a) The General Index Register/Registration Number of the Payer.
(b) The name and address of the Payer.
(c) The name and address of the Payee and General Index Register/Registration Number of the payee, if available.
(d) The nature of payment, such as, commission, rent, interest, contract work, etc.
(e) Amount paid.
(f) Whether by cash, cheque or by book adjustment.
(g) The date or dates of payment.

This slip must be completed by the Inspector who will prepare it in duplicate, retain one in the file with the date of despatch and send the duplicate to the Incometax Officer in whose jurisdiction the payee is assessed or resides. On receipt of the slip, the Supervisor attached to the Circle should acknowledge it and certify that the extract has been placed in the file of the assessee or where there is no General Index Register number, the extract has been sent to the Survey Circle for purposes of investigation. When putting up the assessment records to the Incometax Officer, the concerned assistant should draw the I.T.O.'s attention to the number of intimation slips in the file, showing prominently the dates of the receipt. The Incometax Officer or the Inspector should verify them at the time of assessment and put their initials on them in token of their verification. At the time of the checking of the file by the internal audit, special attention should be paid to seeing whether all the information slips received have been placed on the files and verified by the Incometax Officer. We would not have devoted so much detailed attention to this aspect of the work but for the fact that as at present, no importance at all is attached to the internal source of information and we fear this is one of the reasons which has led to the evasion of tax.

6.17. *All India registration number—*

One of the major steps in preventing tax evasion is to provide for identification of assessees and the transactions they enter into. **This, we suggest, can be achieved by introducing an All India Registration Number system.**

6.18. *Defects in the existing system—*

Under the present system, each circle has a separate General Index Register in which the assessees relating to the Circle are given running numbers on an alphabetical basis. Thus, two persons with the same name have the same number in two different Circles. When information slips are sent out, a good deal of time is wasted in finding out to which particular assessee the transaction relates.

Secondly, when the file is transferred from one circle to another, either for the purposes of closer investigation or at the request of the assessee, a new General Index Register number is given in the new Circle and identification of papers and documents becomes difficult.

Thirdly, in many cases relating to award of contracts or licences, assessees are asked to produce a tax clearance certificates from the Income-tax Department. The procedures relating to obtaining these Tax Clearance Certificates and linking the transactions relating to the contracts or licences for which the tax clearance certificates were issued, are complicated and cumbersome. Many contractors are also found to be carrying on business in different trade names for their convenience. There is no means of checking them together unless the information comes to the notice of the Incometax Officer.

Once the system of a permanent registration number is adopted, a procedure can be devised by which in regard to all transactions involving capital transfers or even in regard to mercantile or banking transactions above a particular prescribed amount, the registration number could be quoted which will act as an effective instrument of cross verification. The same All India Registration Number can be utilised for dealing with other departments like Import Control, Public Works Department and Railway Contracts.

This registration number is already in vogue in some advanced countries. In Sweden and United States of America, every citizen is allotted a national registration number.

6.19. *Outline of the scheme for an all India registration number —*

We strongly recommend the adoption of All India Registration system for incometax payers. A broad outline of the scheme is given below—

(a) The total number of assessees in each Commissioner's charge as on a particular date, say 1-4-1968 should first be ascertained.

(b) Each charge should then be assigned registration numbers to the extent of double the number of assessees as on the appointed date so as to allow for annual additions to the list on account of new assessees.

This would secure that normally over a period of at least a decade, there would be no need to change the registration number.

(c) This annual number should run consecutively from charge to charge—the charges being arranged in the alphabetical order, e.g.—

Commissioner of Incometax, Andhra Pradesh may be assigned numbers from 1 to 2,00,000 assuming that there are one lakh assessees on the register as on 1-4-1968;

Commissioner of Incometax, Assam—from 2,00,001 to 3,00,000 assuming that there are 50,000 assessees as on 1-4-1968;

Commissioner of Incometax, Bihar and Orissa—from 3,00,001 to 4,50,000, assuming that there are 75,000 assessees and so on.

(d) The existing assessees in each charge should then be allotted the registration number with an identification for the charge. For example, the registration number for Andhra Pradesh would be I.T.A.P./1 to I.T.A.P./1,00,000. Likewise, in Assam the first number that would start would be I.T.A.S./2,00,001 to I.T.A.S./2,50,000.

(e) When a case is transferred from one Commissioner's charge to another Commissioner's charge, the registration numbers should not change. It will continue to bear the same number as originally given. For example, if case No. I.T.A.S./2,00,001 is transferred to Andhra Pradesh, the file should not be treated as a fresh assessee in Andhra Pradesh and allotted a fresh number after I.T.A.P./1,00,000. It will be entered in the register kept at Andhra Pradesh as I.T.A.S./2,00,001 with the suffix "A.P." to show that it came over to Andhra Pradesh i.e. this file will then be marked as I.T.A.S./2,00,001/A.P.

(f) For a file held in the Central Circle, the number to be given would be the numbers allotted to the territorial charge from which the case was transferred to the Central Circle. As the cases that come to Central Circle are expected to be held only for the specific purpose of investigation, no separate permanent all India number should be allotted to Central Circle Cases.

(g) As soon as the annual registration number is allotted to a particular assessee, it should be intimated to him through a small registration card with the signature of the Incometax Officer and the seal of his office so that this card can be permanently held by the assessee and the number can be quoted by him for all transactions for which such numbers are required to be entered.

(h) The Central Government should request the Reserve Bank of India to require all the scheduled banks to insist upon their constituents giving the incometax registration numbers when they open or transfer their account with the bank (either current account, time deposit account or fixed deposit account with the bank).

(i) Arrangement should also be entered into with the State Governments that at the time of the registration of Properties, the Incometax Registration Number is recorded in the document itself and the Registrar should verify this from the Registration card. If in any particular case, such registration numbers are not furnished, either on the ground that the assessee is exempt from incometax, say, a charitable institution, or on the ground that the assessee has income which is exempt from incometax, a declaration to this effect should be filed with the Registrar. A monthly or quarterly list of such persons should be sent by the Registrar to the Commissioner of Incometax of the area so that he may investigate and satisfy himself about the correctness of the statement made to the Registrar.

(j) Arrangement should also be made with the other Departments of the Central Government and the State Governments to insist upon the production of the Incometax Registration number before awarding contracts or licences or quotas.

(k) The State Governments should also be requested to provide a column in the salestax returns for giving the Incometax Registration number of the assessee. This would enable easy cross verification of the turnover between the Incometax files and the Salestax files.

6.20. *Integrated Return—*

Another measure to tackle tax evasion would be to have an integrated return for all the Direct Taxes (other than Estate Duty). The very purpose of the introduction of Gift Tax, Wealth Tax and the Expenditure Tax was to enable the Income Tax Officer to verify the correctness of the Incometax return.

These taxes were introduced on the recommendation of Prof. Kaldor and he particularly emphasised the need to have a comprehensive self-checking direct taxes return which would show all incomes, increases in wealth, gifts made and expenditure incurred. While the Government accepted his recommendation as regards enactment of the various Direct Taxes Act, it failed to implement the other important aspect of his recommendation of having a comprehensive return for all the Taxes. This matter was considered by the Direct Taxes Administration Enquiry Committee which felt that "it was not worthwhile to introduce a system of assessment on the basis of such a comprehensive return because the liability under the different Acts does not arise in all cases; even with regard to cases of assessees who are liable to more than one tax, no additional benefit might accrue merely from the introduction of a comprehensive return and that the purpose should be served if the assessments of persons liable under the different Direct Taxes Acts were, as far as possible, completed simultaneously." (Para 1.5, page 2).

6.21. At the time the Report of the Direct Taxes Administration Enquiry Committee was made i.e. 1958, the Department had not gained any experience in the administration of the Wealth Tax, Gift Tax and the Expenditure Tax Acts which were passed in 1957 and 1958. Therefore, that Committee understandably did not have adequate data to suggest a recommendation relating to the integration of returns and that appears to us to be the reason behind the recommendation made by them.

6.22. Now that the Direct Taxes Acts have been in existence for about a decade, we have had an opportunity of having a fairly detailed view of the working of the whole system. Our study shows that the spirit behind the enactment of these self-checking statutes has been completely missed by the Department and the assessments for Incometax, wealth tax and gift tax are being made as if they are unrelated separate assessments. The result has been that in several cases discrepancies between the wealth tax and the incometax returns have been noticed and commented upon adversely by the Public Accounts Committee.

6.23. **We feel the only remedy is to have a comprehensive return providing for information about the taxable income, taxable wealth and the taxable gifts, if any. As the Direct Taxes Administration Enquiry Committee had remarked, it is not in every case all the three liabilities arise. Wealth Tax is payable only where the total net wealth on the valuation date is in excess of Rs. 1 lakh. It can be reasonably assumed that for having an income of Rs. 25,000 and above, a minimum wealth of Rs. 1 lakh will be necessary. Hence it can be provided that all persons with a net income of Rs. 25,000 or more should send their return in the comprehensive return form showing their taxable income, their taxable wealth and taxable gifts, if any. We, accordingly recommended that a comprehensive return form should be provided for the use of those persons who will be having incomes above Rs. 25,000. This, in fact, would save these assessees the bother of filling in three separate return forms and also putting in three appearances for having their assessments completed. This is bound to lead to greater efficiency in assessment and will plug the loopholes of tax evasion. In cases of less than Rs. 25,000 the assessees may be asked to append a statement along with the returned income showing briefly the opening and the closing capital in the cases of business and/or the total value at cost, of the wealth at the beginning to end of the previous year, comprising all the moveable and immoveable property, together with particulars of all gifts made during that year, whether they are taxable gifts or not.** As we are suggesting in the Chapter on Assessments that in cases of less than Rs. 50,000 only a test-check should be made by the Income Tax Officer, giving these particulars would be of help even to the assessee to verify the correctness of his return.

6.24. *Certificate—*

In order to make the assessees realise the consequences of inaccurate or false particulars in such returns and statements, we suggest that a certificate in the following form should be signed by them.

"Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete."

6.25. *Strengthening prosecution machinery*—

A third step to tackle tax evasion from the procedural angle would be to centralise and strengthen the machinery relating to investigation and prosecution of tax offences. At the present moment, investigation of tax evasion cases is undertaken by three different agencies working almost independently of each other. They are the Director of Inspection (Investigation), the Central Commissioners of Incometax and the territorial Commissioners of Incometax.

The functions of the Directorate of Inspection (Investigation) are—

(i) To undertake and coordinate investigations in different and complicated cases of tax evasion.

(ii) To offer guidance regarding methods of examination of accounts in special and complicated types of cases and co-ordinating the investigation work in Commissioners' charges.

(iii) Collection and dissemination of information relating to tax evasions.

(iv) Processing cases for prosecution.

The last two items of work are done through a separate Wing called the "Intelligence Wing" attached to the Directorate and the first two items of work are done by the Investigation Wing of the Directorate.

The Central Commissioners of Incometax who are four in number, functioning from Delhi, Bombay, Calcutta and Madras, have under them, Central Circles to which cases of suspected concealment are transferred for investigation and assessment. The regular territorial Commissioners have also got cases involving complicated investigation which they allot to experienced Incometax Officers under their charge who are guided by the Special Investigation Branch and the Directorate of Inspection.

6.26. The result has been a lack of uniformity in the methods of investigation and in the decisions relating to levy of penalties and processing of the cases for prosecution. During the past five years, from 1962 to 1966, the total amount of penalty levied in cases where definite concealments had been proved, amounted to only Rs. 11.58 crores which works out to less than [illegible] though the Law provides for a minimum of [illegible] per cent of the evaded tax. No prosecution was launched in the years 1961-62, 1963-64 and 1965-66. Of the 47 cases brought before the Court, in 1964-65—8 were acquitted for want of evidence. This discloses lack of expertise in working up cases for prosecution and a marked leniency when it comes to a matter of levying penalties.

6.27. **In cases of proved tax evasion, deterrent punishment is the only cure against its repetition and would be a sure warning to others that tax evasion would not pay. Hence, the present policy of having different agencies to pursue investigation should be reviewed and one Central Agency should be established for tackling tax evasion cases. We have already suggested in the Chapter VII relating to Administration that one Member of the Board should be exclusively in charge of investigations. He should be personally in charge of co-ordinating investigation and intelligence.** The Central Commissioners should act as the regional officers of the Investigation Branch and they should work directly under the guidance and control of the Member, Investigation. **If it is deemed necessary, two more Central Commissioners charges can be created—one at Bombay and the other at Calcutta—and all cases still remaining in the territorial charges where tax evasion is suspected, should be transferred to Central charges so that the territorial Incometax Officer may be free to go ahead with the completion of the normal type of assessments.** The four Zonal Intelligence Wings should also work directly under the supervision of Member (Investigation) and provide necessary intelligence to the Commissioner for working up the cases of tax evasion. Under the Member (Investigation), a separate 'Prosecution Cell' should be created to which officers, preferably Law Graduates, who have had special training in preparing and processing cases for prosecution should be attached. This will ensure uniformity of treatment, besides providing expert assistance.

6.28. *Prosecution should be launched in all cases of proved evasion—*

This streamlining of the Investigation machinery and centralisation of cases of tax evasion would enable the Department to have a good grip over tax evasion cases. Where any assessee desires to settle the case or compound the offence of concealment, such settlement or compounding should be done at the level of the Board. **Wherever there is a clear proof of concealment, the cases must be taken up as a matter of course for prosecution and the temptation to have the case settled should be avoided. At least this should be the policy till such time at the public realises that the Government would no tolerate tax evasion, whatever might be the Revenue advantages that might accrue by way of a compromise or a settlement. At present, there is a wide-spread feeling that the Government is more keen on revenue than on punishing tax evaders. It is high time that this impression was removed by firm action.**

6.29. *Penalty—*

In the matter of penalty also the present system of calculating the penalty at 150 per cent of the tax sought to be evaded is very cumbersome and involves unnecessary calculations. **It will greatly simplify the matters if the penalty is determined not with reference to the tax sought to be evaded but with reference to the income concealed. If it is decided to levy penalty, the amount should be confiscatory so that the evader is not allowed to enjoy the fruits of his crime.**

6.30. *Legal provisions to safeguard against tax evasion—*

It has been stated by many who met us that the practice of Benami transactions has aided tax evasion a good deal. Benami transactions are broadly of two kinds:—

(a) Those which are permitted by law; and

(b) Those which are entered into in fictitious names.

In the former category would lie all those transactions where properties and assets are acquired ostensibly by one person with his funds but in the name of other persons. In the eyes of Law, the first person is the real owner of the property or the asset concerned, and the second person is the name lender.

In the second category of cases, the transaction is put through as if the moneys with which the assets are acquired belong to the Benamedar so that the real person with whose money the asset is acquired remains in the background, enjoying the property but with the legal title in the name of the Benamedar. In such cases, the Benamedars are usually dependents, employees or near relations.

6.31. *Benami transactions-disclosure of—*

A suggestion has been made to us that Benami holdings should be banned under the Law. This aspect was considered by the Direct Taxes Administration Enquiry Committee which felt that it would not be practicable to bring forward such a law. Further, such a law would prevent only the first type of benami transactions mentioned above and the second type would still remain to be tackled by proper investigation. Without, therefore, resorting to any amendment of the Law, **the Incometax rules may be so amended as to compel a person to enter in his return not only the assets held in his name but also particulars of the assets or sources beneficially held by him. Likewise, in the Wealth Tax return also, a specific provision should be made for declaration of all assets either owned or beneficially held by the assessee.** It should also be provided that unless a Benami holding is declared for purposes of Incometax, no claims to it will be enforceable under any law under any circumstances.

6.32. *Income of husband and wife to be aggregated—*

India is one of the very few countries where the assessments of a husband and his wife are made separately. This has helped many unscrupulous assessees in showing their income as belonging to the ladies. The existing provisions in Section 64 are entirely inadequate to meet this situation because that section applied only where an asset is transferred by the husband to his wife or the wife becomes a partner along with the husband in the same firm. A sample survey of many of the voluntary disclosures revealed that many of the declarants were ladies who ostensibly would not have earned the income

In most of the Western countries like U.S.A. and U.K., the incomes of the husband and wife are clubbed together for assessment, but higher personal allowances are given. **We would suggest that as one of the steps to defeat attempts at tax evasion, in India also, the Law must be amended to club the income of the husband and the wife and treat the income as of one unit. This would also simplify to some extent the rather complicated provisions in section 64 which perhaps, in the circumstances, may be omitted, altogether.**

6.33. *Certification regarding correctness of accounts—*

As the Law stands today, a person can be penalised only if he conceals the particulars of his income or furnishes inaccurate particulars of such income, from his return of income. The concealment referred to in section 271 is concealment from the Incometax Officer and is solely related to the return of income submitted by him. If in the accounts maintained by the assessee, false or fictitious entries are made, he cannot be penalised for making such false entries. In two cases which came up before the Madras High Court, the returns showing income on the basis of the false entries made in the accounts, were held as not attracting the penal provisions of the law. This is a matter which should be remedied quickly in order to enable the Department to penalise assessees if the accounts produced in support of the return are proved to be false or incorrect. **We, therefore, recommend that the law should be amended so as to provide that whenever a tax payer submits accounts to the Incometax Officer in support of a return made by him, the accounts should be deemed as a part of the return for the purposes of the penalty provisions of the Act. Secondly, every return should bear a verification certificate affirming the accuracy and the truth of the transactions entered in the accounts on which the return is based. There should be two positive statements, namely,**

(a) **that all cash takings have been recorded in the books and that no cash has been held outside the books; and**

(b) **that all stock has been included in the stock figure at the cost or market rate whichever is the regular method adopted by the assessee and that no stock is held outside the accounts.**

The certificate should be in the same form as suggested in para 6.24.

Such a certificate will prevent the plea advanced by many assessees that their accounts were prepared by their Accountant and they were not aware of the discrepancies pointed out. If the assessee is asked to append this certificate, he would take care to question his Accountant and put his accounts on a true and correct basis which would be of help both to him and the Department.

6.34. *Control of cash hoards—*

A suggestion has been made that since black money is held in cash, the first step to prevent accumulation of untaxed moneys is to impose curbs

on the possession and circulation of large amounts of cash by the public. In this regard, the following suggestions have been offered:—

(a) No person, whether a company, a firm, a family or individual, should keep or maintain a cash balance of more than Rs. 20,000 at any one time. If a person is found to be in possession of a cash balance in excess of this amount at any one time, it should amount to a criminal offence. A pre-requisite of the scheme is that before the announcement of the scheme, all cash balances should be forthwith deposited in bank accounts. The objections to such a scheme namely, the need to pay large amounts of cash for purchase of raw materials, payment of wages and certain Government taxes like Customs and Central Excise, are sought to be met by suggesting that all Government authorities should be asked to accept cheques drawn on scheduled banks with the endorsement "Good for payment" and any raw materials purchased from other manufacturers should be paid for by cheque. For payment of wages, amounts should be allowed to be withdrawn from the bank on the day previous to the day of the payment after obtaining the permission of the Incometax Officer.

(b) No person whether a company, firm, family or individual, should keep or possess a cash balance outside the account books, exceeding Rs. 5,000.

(c) Payments of any one amount in any transaction exceeding Rs. 10,000 should be made only by a crossed or order cheque on a scheduled bank.

6.35. We have considered these suggestions carefully. Attractive as these, we are afraid, it will be difficult to enforce them, unless modified. Under the Gold Control Scheme, a similar attempt was made to obtain declarations regarding excess possession of gold and the Administration has not been able to implement the Gold Control Scheme successfully.

In the inflationary economy which has been in existence for the past several years, cash of Rs. 5,000 outside the account books or Rs. 20,000 in the account books, would be possessed by so many persons that it would be practically impossible for the Incometax Department to verify declarations and endorse the penal provisions where excess amounts are held on any particular day. Such difficulties should not, however, deter us from adopting the suggestion in a modified manner so as to make it workable. **As a considerable amount of black money is introduced through indigenous bankers and hundi brokers; legislation may provide that in their cases, every such indigenous banker or hundi broker or a person engaged in money lending business other than a banking company should not possess a book cash balance exceeding Rs. 20,000 and that every payment made or amount received by him in excess of Rs. 10,000 should be by way of a crossed 'Account Payee' cheque on a scheduled bank. It should further be provided that they should not hold cash outside the accounts exceeding Rs. 5,000.**

In all other cases, the limit of holding cash in the account books should be raised to Rs. 50,000. This should be sufficient for day to day purchases or wages requirements. If excess amount is required, it should be drawn from the bank. Prior permission of the Incometax Officer may not be a prerequisite for withdrawing moneys; it is enough if intimation only is sent to him.

6.36. *Compulsory maintenance of accounts not favoured—*

Another suggestion made to us stressed the need for legislative provision enjoining on every person carrying on any business or profession or vocation with a turnover exceeding Rs. 25,000 per annum, to maintain books of account and that to begin with, all books of account must be registered with the registering authority before the commencement of the previous year. The registering authority should stamp the pages of the book in each one of these books of account and he should pass on the names and addresses of persons obtaining such books of account periodically to the Income Tax authorities.

It is further suggested that in course of time it would be advisable for Government to supply the books of account bearing registration numbers and folio numbers to assessees with a turnover exceeding Rs. 25,000 or Rs. 50,000 and compel them to maintain their accounts in such books. Another part of the scheme proposes the issue of even cash memo books by Government to the businessmen.

6.37. Persons with a big turnover even now keep accounts which are produced in connection with their salestax and incometax assessments. Therefore, **a legislative provision that every person having gross professional receipts or sales turnover exceeding a stated sum should maintain accounts on a certain form appears to be unnecessary and the other part of the suggestion that there should be a registering authority who would register the account books at the beginning of the year, forward such list to the Incometax authorities and that the Government should in course of time issue all account books and cash memos to the assessees are, in our view, not capable of practical implementation.** The administrative cost and the harrassment to the assessees would be so much that the scheme cannot be worked out successfully.

6.38. *Property transactions—*

It is quite well known that a large sum of unaccounted money is invested in the construction and acquisition of immoveable properties and that the Department has not been able to tackle effectively the problem of unaccounted money utilised in these property transactions. For purposes of tackling this problem, the following steps seem to be necessary:—

(a) Determining the correct cost of land.

(b) Determining the correct amount of expenses on the construction of the property.

(c) Finding out the real price at which the transfer of property is effected.

(d) Finding out the real owner of the property so as to eliminate benamies.

6.39. *Board should have assistance of expert valuers—*

In order to determine the correct cost of land or the real price at which the transfer has been effected, it would be necessary, in the first instance, to have the assistance of expert valuers. For this purpose, many of the Commissioners of Incometax who met us, suggested that qualified valuers should be employed by the Central Board of Direct Taxes to assist them in the valuation of properties, particularly land and buildings and other moveable assets like jewellery. These valuers should have in our view their zonal offices at Bombay, Calcutta, Delhi and Madras and should offer expert assistance to the Incometax Department whenever any question of understatement of property value arises. If, on the basis of the expert advice, it is clear that there has been an understatement, the Law should enable the Government to challenge the transfer in the same way as the Registrar is vested with the powers to challenge a transaction for the purposes of the Stamp Act.

6.40. *Option of purchase at declared price, to Government—*

In this connection it is worthwhile to examine whether it cannot be provided that the Government would have an option to purchase the property at the declared value plus 5 or 10 per cent over it. Even though the Government may not resort to it in every case, the existence of an option in law will act as a deterrent against under-declaration of price. In fact, a similar recommendation was made by the Santhanam Committee. If such a procedure is permitted by the Constitution, it is worthwhile in our view to have recourse to such a legislation.

6.41. *Jewellery—*

It is common knowledge that a part of hoarded money is kept in the form of precious stones, gold and jewellery. It has been suggested that while submitting the wealth tax return, the detailed items of jewellery must be given instead of a lump figure as at present. Secondly, it has been suggested that it should be provided that no transaction of purchase and sale of jewellery should be effected except through approved dealers in jewellery. Thus, for example, no transaction in jewellery should be permitted between individuals or Families, and no firm or a company not being an authorised dealer in jewellery should purchase or sell jewellery. We endorse this suggestion particularly because for the purpose of the Gold Control Scheme, authorised dealers are licensed and there should, thus, be no difficulty in implementing the scheme. These restrictions should, however, apply only where the purchase and sale of jewellery exceeds Rs. 10,000.

6.42. *Inclusion of agricultural income for rate purposes—*

Our study has revealed that one of the methods adopted for evading incometax is to show taxable income as income from agriculture. Since

under the Indian Incometax Act, agricultural income is exempt from taxation, this method of segregating large slices of taxes on income by attributing it as income from agriculture has been widely practised particularly by persons running industries requiring agricultural produce as raw material. In their cases, the yield from agriculture is inflated and large receipts from manufacture are shown as agricultural income, thereby getting the twin advantage of tax exemption and utilisation of such money for business purposes. It has, therefore, been suggested to us that the law should be amended to provide for removing the exemption relating to agricultural income. Section 10(1) of the Incometax Act which provides for exclusion of agricultural income from total income merely reiterates the Constitutional position, namely, that under Entry 82 of the List I to the Seventh Schedule, the Parliament cannot legislate for taxation of agricultural income. Therefore, merely by deleting the provision in section 10(1) the Parliament will not have power to impose taxation on agricultural income unless the Constitution itself is amended. This is a matter on which both the Centre and the States should agree and it is desirable that such an agreement is reached with a view to strengthening the drive against tax evasion. Till such time as an agreement is reached for amending the Constitution providing for taxation of agricultural income also by the Centre, **it appears desirable to make a provision in the Incometax Act that agricultural income will be included in the total income of a person for the purpose of determining the rate of tax chargeable on his total income excluding agricultural income. We are of the view that such a provision would not affect the Constitution and we would commend to the Government to adopt this course after examining the legal and constitutional aspect of it. If necessary, a reference may be made to the Attorney General of India.** In this connection, the following observation of the Indian Taxation Enquiry Committee 1925 may be of interest:—

"There is no historical or theoretical justification for the continued exemption from the Incometax on incomes derived from agriculture. There are, however, administrative and political objections to the removal of exemption at the present time. There is ample justification for the proposal that incomes from agriculture should be taken into account for the purpose of determining the rate on which the tax on other incomes of the same person should be assessed, if it proves administratively feasible and practically worthwhile.

Possession of agricultural incomes increases a person's capacity to pay and unless agricultural income is taken into account for rate purposes, the principle of adjusting incometax on the basis of ability to pay will be defeated."

6.43. *Publicity*—

While legislative measures and administrative procedures would certainly go a long way in checking tax evasion, we are firmly of the view

that by themselves these measures will not be able to check the tax evasion unless the society itself develops a social conscience against it. A tax evader is now generally admired for his ability and cleverness and when he makes donations or gifts or throws parties, people even in high positions viz. with each other in attending the functions held by him or to honour him for munificient donations made by him to some cause or another. We consider that so long as this attitude and practice continue, tax evasion will flourish as a paying industry in this country. **To bring home to the tax evader the crime he is committing against society, the following steps are necessary:—**

(i) **A person found guilty of tax evasion should be regarded as a social outcaste and no association or institution or party should as for or accept any gifts or donations from such a person.**

(ii) **There should be a ban on Ministers and Government officials attending parties thrown by him or held to honour such a person. The Members of the Legislature should also build up a convention of not attending such functions. In order to identify such persons, the Government should publish every six month a list of—**

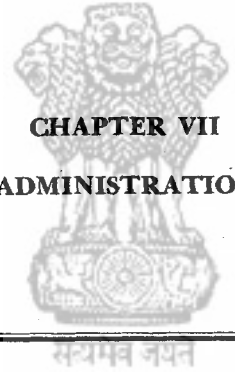
(a) **all persons in whose cases penalties for concealment have been levied under section 271(1)(iii); and**

(b) **all persons whose cases were dealt with under section 271(4)(a) and (c) and all persons who were prosecuted for tax offences.**

6.44. The Direct Taxes Administration Enquiry Committee has already recommended the publication of the names of all persons in whose cases penalties have been levied for Rs. 5,000 or more for the concealment of income, wealth and expenditure, in the local Gazette as well as in the Press, giving the details of their names, their addresses and the amount of penalties. At present, an annual list of such names is published in the Gazette only. The other part of the recommendation of the Direct Taxes Administration Enquiry Committee viz. that their names should be published in the local Press also has not been implemented so far. It is common knowledge that the Gazette is read by very few persons. If the recommendation of the Direct Taxes Administration Enquiry Committee is to be implemented in the spirit in which it was made, **it is essential that all these names should be published in the local Press, in as many papers as it is possible, in Hindi, English and in other languages.**

6.45. Besides this, every Incometax Office should, after the 1st of April, 1968, **put on the Notice Board a list of all assessees with their returned and assessed incomes for the view of the public. Such a publicity would prevent persons from understating their income and would help the Department to get information from those who have knowledge of the financial affairs of the assessees concerned.**

6.46. Now-a-days, the Cinema, the Television and the Radio form a powerful link of publicity. **The Ministry of Information and Broadcasting should be requested to produce a feature film depicting the harm caused by a tax evader to the country's economy showing how by concealing income and reducing his tax liability he is shifting the burden of taxation to the honest tax payers. Through the radio, television and speeches in non-technical language, features may be arranged explaining the tax payer's obligations and the service he renders to the society. Even short plays can be put on the air. Thus, a climate should be created in which a tax evader will find it difficult to carry on with his anti-social activities.**



CHAPTER VII

ADMINISTRATION

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ADMINISTRATION

7.1. *General*—

No amount of care in determining how a tax system shall be reorganised for achieving the objectives of speedy disposal of assessment cases, collection of revenue and prevention of tax evasion, will give even a measureable approach to efficiency, unless a technically competent personnel can be secured and retained in the service and such personnel are effectively directed and controlled. Therefore, an enquiry into the organisation and set-up of the various agencies is essential. In this Chapter we propose to deal with the problems relating to the Central Direct Taxes Administration in India.

7.2. Before proceeding to state the problems and recommendations in this regard, it would be helpful to have a brief outline of the present organisational set-up of the Direct Taxes Department.

7.3. *Historical Background*—

As the Ministry of Finance is responsible for the administration of the Finances of the Central Government the Department of Revenue dealing with fiscal matters forms part of that Ministry. However, under the Central Direct Taxes statutes, the Central Board of Direct Taxes has been entrusted with the power to administer the various direct taxes. This Board has been set up under a separate enactment called the Central Boards of Revenue Act, 1963 (54 of 1963). The statutory functions of the Board are also exercised by the Department of Revenue, and for this purpose, the Members of the Central Board of Direct Taxes function in a dual capacity. In regard to matters arising from the exercise of the powers and functions conferred on the Central Government, the Chairman and the Members of the Board function as Additional Secretary and Joint Secretaries of the Government of India but in respect of matters arising from the exercise of the powers and functions conferred on the Central Board of Direct Taxes they act as Chairman and Members of that Board. The only exception to this is the Secretary of the Department of Revenue who is not a Member of the Board. Thus, the Chairman and Members of the Board function as Department of Revenue while advising Government on policy matters and communicating the orders of Government, and while implementing the policy, they function as the Central Board of Direct Taxes. Commenting upon this duality of functions, the Estimates Committee in its 49th Report (Second Lok Sabha) observed as follows:

> "The Committee consider that in combining the Secretariat functions of Department of Revenue and the administrative function of the Central Board of Revenue in the same persons in

India, the purpose of the Central Boards of Revenue Act has been largely defeated."

It, therefore, recommended the examination of the question of separating the Central Board of Revenue—as it then was from the Secretariat wing. The Direct Taxes Administration Enquiry Committee, however, felt that the Central Board of Revenue should continue to function as the Department of Revenue because in their opinion it was neither practical nor desirable to divorce administration entirely from policy making, though they admitted that the policy making divorced of administrative responsibility would tend to become theoretical and unrealistic.* They also feared that separation of Secretariat functions would only result in establishing another parallel organisation with almost similar functions and would cause delays, lack of co-ordination and increase in the cost of administration. The Railway Board and the P&T Board were further cited as instances where statutory Boards functioned as the Departments of the Government. When there is, thus, a conflict of opinion between the two Committees, we thought that a more detailed and objective study of the problem was necessary in order to find out the type of organisation most suitable to the efficient administration of the Tax Laws.

7.4. *Merits and Demerits of Separating Policy Formulation from Policy Implementation—*

The advantages and the disadvantages of a system which separates policy making from operational responsibility can be broadly grouped as under—

Advantages—

(a) The policy making will not be hamstrung by day to day detailed administrative functions in regard to collection of revenue and thus will be free to devote its attention on policy and regulation and provide the type of perspective which continuous absorption in specialised work cannot be expected normally to produce†.

(b) Assessment and collection of revenue are specialised tasks requiring intimate knowledge of the technical and personnel problems of the Department and require a continuous and a constant attention of a separate body. If the Members of the body are required to attend to Secretariat duties, the main purpose for which the body was constituted, would be largely defeated.

(c) As the Revenue Department has to exercise discretionary powers in a very large measure, it will invite allegations of Ministerial

*Para 8·5, page 190 of the Report of the Direct Taxes Administration Enquiry Committee.

† Observations of Sir Warren Fisher quoted by the Report of a Committee appointed to review the organisation and administrative methods of the Inland Revenue Department, U.K.

pressure wherever discretions have been exercised even honestly in favour of any particular assessee or group of assessees. Like Caesar's wife, the Revenue Department must be above suspicion and this can be achieved only if the Board functions independently of the Government of India Secretariat. A separate Board, functioning independently, would be in a position to attract the loyality of its staff as it will be in a position to stand up for them while representing matters relating to their conditions of service and career prospects with the Secretariat. If both the functions are combined, its decisions relating to establishment matters would be subject to rigidity of approach arising from the consciousness that it is a Wing of the Ministry of Finance, thereby, it will tend to forfeit the confidence of the personnel in regard to the concern it exercises for their welfare.

Disadvantages—

The disadvantages that may be urged against such a separation are:

(a) Policy making divorced of administrative responsibility would tend to become theoretical and unrealistic.

(b) Separation of the Secretariat functions will only result in establishing another parallel organisation with almost similar functions and may cause delays, lack of co-ordination and increase in the cost of administration.

(c) Even if separation of functions is effected, the Board will have to continue advising the Government on fiscal policy, examining fresh proposals of taxation and suggesting modifications.

Examining both the advantages and disadvantages, we are of the view that the advantages for outweigh the disadvantages cited. Of course, if any of the disadvantages is of such a magnitude as to render all the advantages illusory, it would be unwise to bring about a separation. But if the disadvantages, even if real, are not likely to affect the organisational strength and the efficiency of tax collection or steps are possible to remove the defects, the path of wisdom would lie in proceeding with the re-organisation by separating the policy making wing from the policy implementation wing.

The experience of the Inland Revenue Department of the United Kingdom has shown that a separation of the policy formulation from the policy implementation has been of immense benefit to the Department. The fears expressed by the Direct Taxes Administration Enquiry Committee that the policy making would become unrealistic and theoretical appears to overlook the fact that there would be constant consultations between the policy making Wing and the policy implementation Wing: it is not as if the Secretariat will function as an ivory tower. In fact, the Secretariat Wing proposing legislative policy will bring to bear a balanced approach by listening to both the Department's problems and difficulties

and the assessees' views and it will also strengthen the confidence of the tax paying public in the objectivity of the persons responsible for the tax policy. It is the considered view of this Working Group that if the functions are separated, it would bring about a pause in rushing through with legislative amendments which is the present practice to get over a legal difficulty imagined or real. As regards the fear that this may lead to setting up a parallel organisation, it is not necessary that the Central Board of Direct Taxes should have a completely parallel and identical set-up in the Secretariat. The Secretariat Revenue set-up can function as a small co-ordinating unit in the Ministry of Finance with the Chairman, Central Board of Direct Taxes, acting as a link between the Ministry and the Board.

7.5. *Policy Implementation must be Separated from Policy Formulation*—

Having regard to these factors we recommend that in the interest of efficiency, it is necessary to separate the dual functions of the Central Board of Direct Taxes and constitute it as a separate unit.

7.6. The functions of the Central Board of Direct Taxes are analogous to those of the P&T Board and hence the Central Board of Direct Taxes may be re-constituted on the lines of the P&T Board, with its Chairman enjoying the status of a Secretary. We accordingly recommend that the Board should consist of a Chairman and Members as follows—

1. Chairman, Central Board of Direct Taxes of the rank of Secretary to the Government of India.
2. Senior Member, Tax Planning and Assessment of the rank of Additional Secretary to the Government of India.
3. Member, Investigation and Intelligence of the rank of Joint Secretary.
4. Member, Wealth Tax, Gift Tax, Estate Duty of the rank of Joint Secretary.
5. Member, Inspection and Audit, of the rank of Joint Secretary.
6. Member, Administration and Establishment, in the rank of Joint Secretary.

7.7. *Justification for a Separate Member (Administration)*—

It has been represented to us that a good deal of discontent that at present exists in the Department is due to the fact that there has not been any adequate attention paid to the problems relating to recruitment, training, transfers and promotions of the personnel of the Department. This has seriously affected the morale of the service as a whole. It cannot be denied that the problems relating to the recruitment and promotion have been tackled, more or less, on ad-hoc basis, from time to time rather than with foresight and long-term planning. For a Department with such a

huge gazetted staff of nearly 2000 and non-gazetted staff of about 23000, the arrangements made for looking after the administrative problems are pitiful. For such a big establishment, there are two Under Secretaries and one Deputy Secretary who puts up the papers directly to the Chairman. With the staff problems getting complicated day by day, owing to disputes of seniority and recruitment, **it is of immediate necessity to reorganise the personnel wing of the Board. That is why, we have suggested the appointment of a separate Member, Establishment and Administration.**

At first sight it would appear that the Membership of the Board is being expanded to near about double the present strength of four. This is only apparently so. We are recommending separately the abolition of the posts of three Directors in the scale of Rs. 1800/2250 with a special pay of Rs. 250 and, therefore, the net addition to cost will be negligible.

7.8. *Need for Strengthening Statistical Wing and Placing it under a Member—*

Statistical research relating to taxation has not received adequate attention all these years. The need for statistical research and information particularly in the climate of a fast changing tax pattern cannot be overemphasised. The taxes which the Department administers affect the social and economic life of the country in a most powerful way. No one knows or can know as much about the effect of the administration of the taxes as members of this Department, but we doubt if there is a machinery in the Department adequately equipped to give information on such matters. We do not say that the Department lacks the data to provide the information on the economic effects of the taxes; but what has been lacking hitherto has been their purposeful collection and arrangement according to their bearing upon the general problems. For example, we desired to have information regarding the net tax collected from Registered firms after allowing rebate for that tax in the assessment of partners and information about additional income tax collected from Section 104 companies. We were not supplied these data, even though, they are by no means unimportant so as to permit their neglect. Again, the All India Revenue statistics are available only upto 1963-64. It is true that there is a Statistical Branch working under the Director of Research, Statistics and Publication but this branch which was set up in 1940 to deal with about 2.5 lakh of assessment cases, has to grapple with ten times that number without any noticeable increase in staff and equipment. Further, there are, at present, three agencies collecting information and conducting research on tax problems viz.—

(i) The Tax research unit attached to the Economic Affairs Department;

(ii) Tax Planning section functioning under the Board of Direct Taxes; and

(iii) The Directorate of Statistics, Research and Publications, functioning as an attached office under the Board.

We find that there has not been any co-ordination among these three agencies and that in matters relating to tax policy, such unco-ordinated statistical efforts will do more harm than good, because each branch will tend to distort the picture in the light of the information it possesses. **We therefore, suggest that both on grounds of efficiency and economy, these three different agencies may be amalgamated and brought under the direct control and guidance of the Senior Member of the Board in-charge of Tax Planning and Assessment.** The importance of statistical and research work in Tax Department has been stated clearly by the Royal Commission on Taxation on page 303 of their final Report, which is extracted below—

"In the course of our enquiry we found ourselves again and again brought up short on questions of this kind for lack of firm material by which to check general impressions. We say that without any reflection upon the very valuable assistance that we received upon many occasions and upon many topics from the Statistical and Intelligence Division of the Department. But the statistical information of the sort of which we speak will not be available unless the range of the intelligence work of the Department is deliberately extended by a decision of policy so as to include it. It is our hope that this will be done; for unless such resources are available, taxes are imposed, altered or removed by the Government of the day without any co-ordinated factual survey of their past or probable effect on our social life or our industry. And, in our view, the Department which is responsible for administering the taxes ought to be in a position to offer advice on such questions."

7.9. *Board's Divisions to be under Officers of the Rank of Directors, Drawn from the Field—*

The branches in the Department of Revenue are, at present, being manned by Under Secretaries who work under the supervision of Deputy Secretaries who act as ex-officio Secretaries of the Board. All the Secretaries and Under Secretaries are drawn from the Income-tax Department, except that the Under Secretaries and Deputy Secretary in-charge of Administration are from Central Secretariat Service and I.A.S. respectively. The sections except only two are all manned by Central Secretariat officers.

In view of our recommendation to separate the Board from the Secretariat wing, it will be, no longer, necessary to have officers of the Central Secretariat Service or any other Service other than Income-tax to look after the branches. It will make for a homogeneous unit if all the officers whether for technical work or for Administration work are drawn from the Income-tax Department. **We, therefore recommend that all the officers of newly constituted Board should be from the field.**

The Divisions in the new set-up may be held by senior officers of the present rank of Assistant Commissioners of Income-tax who will be in grade of Directors in the Ministries of Government of India. They will

take the place of the present Secretaries of the Board. A suitable designation may be given to them consistent with the revised status and pay. The senior-most of such officers should be in-charge of Administration and he will also act as Secretary of the Board.

The Directorates—

7.10. *The Directorate of Inspection (Income-tax)—*

At present, there are three Directorates functioning as Attached Offices of the Central Board of Direct Taxes. All the three Directorates are meant to assist the Board in the supervision, control and co-ordination of the Administration of Direct Taxes. The Directorate of Inspection (Income-tax) which is the oldest of the three Directorates was set up in 1940. The principal duties of this Directorate are—

(a) prescribing inspection programmes for Inspecting Assistant Commissioners;

(b) reviewing all inspection reports and carrying out personal inspections;

(c) laying down policy for inspection by Inspecting Assistant Commissioners;

(d) issuing general instructions to field officers to remedy defects noticed at inspection;

(e) inspection of the working of the offices of the Commissioners of Income-tax, Inspecting Assistant Commissioners and Appellate Assistant Commissioners of Income-tax;

(f) training of gazetted and non-gazetted officers and conducting departmental examinations for them; and

(g) assessment of work-load and advising the Board on organisational matters relating to the field offices.

The duties when summarised fall into four categories viz., inspection, training and conducting departmental examination, assessment of work-load and advising the Board on organisational matters.

The Direct Taxes Administration Enquiry Committee which examined the functions of this Directorate suggested that the Directorate should exclusively deal with inspections and that work by itself would be of such a magnitude as to make it difficult for this Directorate to attend to other matters. It, therefore, suggested that training programmes of gazetted and non-gazetted officers and conducting departmental examinations should be transferred to the Directorate of Training, Statistics, Research and Publications. But the Government did not apparently accept this suggestion with the result that this Directorate has been allowed to carry on the same workload. Inevitably, the Inspection work has suffered. As the Direct Taxes Administration Enquiry Committee very rightly remarked, inspection work is of the utmost importance in that it is through the inspections by this Directorate that the Board could be enabled to satisfy itself that its instructions are uniformly and impartially observed.

As regards training programmes, they are not planned on a continuing basis and there is no proper evaluation of the results of such programmes. Turning to the other aspect of the work entrusted to this Directorate viz., advising the Board on organisational matters there is no clear-cut division below the formations entrusted to this Directorate and to the Directorate of Investigation.

Further, this Directorate is entrusted with the task of looking after the Department's replies to the Audit Reports issued by the Comptroller and Auditor General and has to act as a liaison between that office and the Board. We find that in this aspect of the work also, the importance of which cannot be minimised, the Directorate has not been able to make much headway.

The need for strengthening the internal audit has been brought home in several of the Reports of the Public Accounts Committee and this Directorate is also assigned the task of coordinating the work of internal audit. Here again, due to reason beyond its control, the Directorate has not been able to discharge the duties adequately and satisfactorily.

Having regard to these defects, we are constrained to come to the conclusion that the object with which this Directorate was set up, viz., toning up of the Administration and acting as the eyes and ears of the Board, has not been fulfilled. **We are, therefore, of the view that the work relating to Inspections and Audit should be supervised by a Member of the Board and it is with this view that we have recommended in para 7.6 that one of the Members of the Board should be assigned the duties of looking after the inspection and audit work. In view of this recommendation, we suggest that this Directorate may be abolished and two units of inspection and audit may be attached to the Board's office itself as separate Wings.**

7.11. *Directorate of Inspection (Investigation)*—

This Directorate was set up in 1952 with the main idea of taking over for investigation the cases which were returned by the Investigation Commission to the Department after reaching settlements or making recommendations for assessments. Thereafter, the duties of the Directorate were expanded and, at present, the following are the functions and duties that are assigned to this Directorate—

(i) Undertaking and co-ordinating investigation in difficult and complicated cases of tax evasion;

(ii) Technical supervision of Special and Central Circles;

(iii) Technical enquiries and guidance;

(iv) Vigilance; and

(v) Co-ordination of the Intelligence work carried on by Zonal Deputy Directors of Inspection.

The Direct Taxes Administration Enquiry Committee made a pointed recommendation that, having regard to the need to maintain the highest standards of morality and integrity, the Vigilance work should be taken over by a separate Director of Vigilance. Here again, the Government did not implement this recommendation and vigilance work which is growing in volume, is continued to be handled by the Directorate. The Direct Taxes Administration Enquiry Committee also recommended that, with a view to checking evasion and avoidance, the Directorate should function in a more positive way by itself gathering all useful information and directing investigational activities of the Department.

For carrying out this Intelligence work, the Directorate has now four zonal Deputy Directors whose offices function as units of this Directorate. The Deputy Directors of each zone gather useful information and also conduct and supervise tax raids. There is, however, no close co-ordination between the Investigation Wing and the Intelligence Wing even though the Director happens to be common for both. In the Chapter on Tax Evasion (Chapter VI), we have suggested the strengthening of the Investigation machinery and accordingly recommended that the work of investigation should be directed and supervised at the Board's level by a Member of the Board under whom the Central Commissioners charges will function and work as Branch Investigation Units. It is for this purpose we have recommended in para 7.6 supra, the appointment of a separate Member for Investigation and Intelligence. If this recommendation is accepted, **it would not be necessary to continue the Directorate of Investigation, and it may, therefore, be abolished.**

7.12. *Directorate of Inspection (Research, Statistics and Publication)*—

This Directorate was set up as a result of the recommendations of the Direct Taxes Administration Enquiry Committee. The functions of the Directorate, at present, are—

(i) Compiling statistics relating to the administration of Direct Taxes;

(ii) Conducting research study on tax matters;

(iii) Keeping control and watch over both assessments and demands;

(iv) Attending to writes-off of arrears and demands; and

(v) Publication of Manuals and issue of Bulletins.

The list given above is quite an impressive array which for any one connected with the Administration, it will be apparent, will not be within the capacity of one unit. For example, collecting statistics and interpreting the statistics for the purposes of budgetary control and advising the Ministry on tax policies is in itself a very important item of work and should receive all time attention. Till recently, there has been no attempt of giving statistical interpretation of the various figures available with the Department and it was only recently such a study was included in the Statistical review

of Direct Taxes (1965-66). This Working Group was handicapped by the absence of statistical information on many matters.

Secondly, we have received complaints from several quarters that there is a complete absence of publicity in regard to the obligations and rights of tax payers. The officers have also complained that the Manuals issued to them are delayed to such an extent that they are obsolete when received. The importance of Public Relations in the case of a Revenue Department which has nothing immediately tangible to offer to the tax payers in return for the money it collects, except perhaps irritation, has to be fully recognised. Conscious attempts should be made to win the co-operation of the tax paying public, and if it is not possible to tax and to please, we should at least endeavour to tax and not displease. Such an endeavour should be made at all levels and must be watched and directed from the Board itself. For this purpose the Senior Member of the Board should be in charge of Public Relations and every Commissioner's office should have Public Relations Officers of the rank of Assistant Commissioners. He should be assisted by well-informed staff, and this Public Relations team should offer willing guidance to the assessees in the matter of filling up forms, paying taxes, getting refunds etc. He should also hold seminars to inform the assessees of the rates of tax, reliefs etc. they are entitled to and the manner of filling up forms. Tax payer education and tax payer assistance should be the twin tasks of this team. **The separate Directorate now existing may consequently be abolished.**

7.13. *Commissioners of Incometax—*

The Commissioner of Income-tax is the head of a Division called a Commissioner's charge, consisting of several ranges each under an Inspecting Assistant Commissioner of Income-tax under whose administrative control the Income-tax Officers function. The Commissioner of Income-tax has both statutory and administrative functions, and for the administrative purposes he has all the powers of a Head of the Department.

The Commissioners are appointed generally on territorial basis, but there are at present 4 Commissioners appointed not with reference to area but for particular groups of cases. They are known as Central Commissioners. The total number of Commissioners in India at present is 25 (excluding Directors and Officers functioning as Officers on Special Duty).

7.14. *The Present Position and Need for Improvement—*

Many of the senior officials of the Department who appeared before the Working Group complained bitterly of the deterioration in the status and prestige of the Commissioner consequent upon centralisation of important administrative powers in the Board and multiplicity of directions received from the Board and the Directorates functioning thereunder on even technical matters. Without the need to any elaborate investigation into the correctness of this complaint, it was quite apparent to us that

a post which enjoyed much prestige and status prior to 1939 has suffered a good deal of attenuation thereafter, with the result that "at present he is reduced more or less as the interpretor of the Income-tax Officer and the Inspecting Assistant Commissioner to the Board". This has been partly due to the partial implementation of the Aiyer Committee's Report of 1936 which suggested the reorganisation of the Department on the U.K. Model with a Chief Commissioner of Income-tax at the Centre assisted by Commissioners of Income-tax in the regions on reduced scales of pay. This recommendation was sought to be implemented in a different way by the Government by appointing a Director of Inspection (Income-tax) at the Centre but with no powers of administrative control over the Commissioners, but of course, with a good deal of power of interference over their work. The result has been a constant crop of disputes relating to their respective powers and responsibilities. This situation gained further edge with the addition of two more Directorates in the fifties. The Board naturally had to intervene and owing to the combination of policy and executive control in its hands the natural tendency was a gravitation of power in the hands of the Board reducing both the Directorates and Commissioners powerless and anaemic. Further, fear of parliamentary criticism and a tendency on the part of the assessee public and their representatives to approach Ministers and the Board with complaints and representations against Income-tax officials, have let the Commissioners to play safe and seek instructions and decisions from the Board even on matters which fall within their competence. The Estimates Committee (1958-59) had occasion to comment on this tendency on the part of the subordinate officers. In spite of this, the number of representations and complaints received and the number of references received by the Board seeking instructions on even administrative matters has been showing an alarming increase. It is high time, therefore, that this tendency was reversed and the Commissioners functioned in their full stature and regained their status and authority. Probably, there was justification for some kind of centralised control at a time when many of the Commissioners were drawn from the I.C.S. having had no practical experience of assessment and administrative work in the Income-tax Department. In this context, the recommendation of the Aiyer's Committee was probably justified, but when all the Commissioners of Income-tax are now senior men with more than 20 years of assessment and administrative experience, there should not be any need to give them directions. After all, the Commissioner is the man on the spot and the judgment he gives, is likely to be more correct than any other authority sitting hundreds of miles away, with less opportunities to appreciate local conditions and the local points of view. **We, therefore, recommend that both in regard to administration and technical matters, the Commissioners should have greater freedom than at present given to them. For this purpose we suggest that the Commissioners of Income-tax may be given full powers of recruitment and appointment of personnel upto the stage of Income-tax Officer Class II (which grade we have suggested later**

in this chapter should be filled only by promotion from the cadre of Inspector). The Commissioner should be given powers to grant advance increments to such members of the staff within his jurisdiction who have made some outstanding contribution in the sphere of duties allotted to them and should be encouraged not to take cognisance of anonymous petitions against the officers and members of the staff unless such petitions contain clear facts capable of verification. If the officers have confidence in the Commissioner that he will protect them against frivolous and unfounded attacks from unscrupulous assessees or insubordinate assistants, he will be able to function as an effective head of the organisation. As regards technical matters he should be given discretion to reach settlement of cases with assessees, and in respect of enforcement and stay of recovery proceedings in all cases within his jurisdiction. However, in regard to interpretation of law and rulings on legal questions, it would be more appropriate if such rulings and interpretations are given by the Board so that there may be uniformity in administration of the Tax Laws. Further, the Board would be in a better position to avail itself of expert legal opinion from the Ministry of Law.

7.15. *Work Load and Jurisdiction—*

At present, there is too heavy a work-load on the Commissioners and it is necessary to reduce this and rearrange jurisdiction to achieve the principle of one State-one Commissioner subject, of course, to administrative considerations relating to economy. For example, the Commissioner of Bihar and Orissa is having a far flung area, with the result that it would be impossible to expect him to keep a close control over the officers functioning in both the States. Therefore, this charge could be split up into two, and a separate Commissioner of Income-tax might be appointed for Orissa. On the contrary, the splitting up of Punjab into Haryana and Punjab would not justify two Commissioners of Income-tax because the Old Punjab area was itself limited in its geographical area and dispersal of Income-tax officers. In Bombay and Calcutta, which together account for two-third of the total revenue from Direct Taxes, it is necessary to appoint two Commissioners of Income-tax exclusively for Recovery Work. The assessees are heaviest in these two changes, and it is essential that the work relating to collection of demands and arrears is entrusted to Tax Recovery Commissioners.

We have recommended in Chapter VI that there should be six Commissioners of Income-tax (Central) to take over cases requiring detailed investigation. These six posts will be in addition to the territorial posts recommended above.

7.16. *Pay—*

We consider that the pay scale now sanctioned for the Commissioner viz. Rs. 1800—100—2000—2250, does not adequately reflect the responsibilities this post carries. The posts of members of the Incometax Appellate Tribunal to which Asstt. Commissioners of Incometax are eligible on selection carry a higher pay than that of Commissioners. We suggest that

the Commissioners should be allowed to draw the same pay as Members of the Tribunal. The Direct Taxes Administration Enquiry Committee also made a similar recommendation in para 8.31 of their report.

7.17. *Assistant Commissioners of Income-tax—*

The Asstt. Commissioners' cadre which forms a link between the cadres of the Income Tax Officers Class I and the Commissioners of Income-tax, has a sanctioned strength of 322 officers as on 31-3-67, divided into two categories—the Appellate Assistant Commissioners and the Inspecting Asstt. Commissioners. Prior to 1939, there was no such division, but the Aiyer's Committee made a recommendation that there should be separation of the judiciary functions from the executive functions exercised by the Assistant Commissioners, and as a result, the institution of Appellate Assistant Commissioners was created in 1939. Until 1939, the Assistant Commissioners' charges roughly corresponded to the Revenue Commissioners' Divisions in the Provinces and there were two scales of pay for the Assistant Commissioners—an ordinary scale of Rs. 1000—100—1500 for Assistant Commissioners working in places other than Bombay and Calcutta and Rs. 1500—100—2000 for those working in Bombay and Calcutta. Later on, this scale was abolished, but a special pay of Rs. 250 added instead.

7.18. *Appellate Assistant Commissioners—*

Almost all the non-official bodies have been unanimous in suggesting that the Appellate Assistant Commissioners should be removed from the control of the Ministry of Finance and placed under the control of the Ministry of Law. The Indian Chamber of Commerce, Calcutta, has stated in its Memorandum to us as follows:

> "The feeling of the assessees is that the Appellate Assistant Commissioners are merely departmental officers who mostly confirm or slightly modify the assessments made by the Department. The Appellate Assistant Commissioners do not appear to function independently and appear to have a bias in favour of the revenue; this is the general impression carried by the Income-tax assessees when filing appeals before the Appellate Assistant Commissioners.
>
> In the circumstances, the Chamber feels that the Appellate Assistant Commissioners should be made independent and placed under the Ministry of Law".

On the other hand, some of the officials of the Income-tax Department have argued in favour of the abolition of the posts of Appellate Assistant Commissioners and vesting the power of a pre-assessment judicial review in Inspecting Assistant Commissioners. This, they have suggested, as one of the measures of cutting down delays which a separate appellate procedure inevitably involves.

7.19. The latter suggestion would be a retrograde step and we consider that there is no substitute for a separate independent appellate authority as a protection to the tax payer. Even under the present system, tax payers are not barred from discussing their problems with the Inspecting Assistant Commissioners prior to the finalisation of the assessment. In fact, during our study tours of the Commissioner's charges, we found that this practice of pre-assessment discussion at a higher level is frequently taking place. In cases assessed in Central Circles, almost every case is being discussed by the Assistant Commissioner with the assessee's representatives before the assessments are made and this facilitates agreed settlements.

7.20. As regards placing the Appellate Assistant Commissioners under the Ministry of Law, the Direct Taxes Administration Enquiry Committee examined this suggestion at great length and came to the conclusion that removal of the Appellate Assistant Commissioners from the administrative control of the Central Board would, besides completing the process of separating the judiciary from the executive, would give due consideration to the feelings of the assessees (para 4.9 of the Direct Taxes Administration Enquiry Committee). However, the Government did not accept this recommendation possibly because it would deprive a large number of Assistant Commissioners of chances of promotion to the cadre of Commissioners, and of getting deputation and special pay posts within the Department. It has been urged before us that the Appellate Assistant Commissioners do act independently and that in 90 per cent of the cases that go before them, reliefs are given and hence there is no basis for the fear expressed that by being under the control of the Central Board of Direct Taxes, they act with a departmental bias. This aspect of the matter has already been considered by the Direct Taxes Administration Enquiry Committee who rightly remarked that "it is not enough that justice should be done, it should also appear to be done, and in a democratic pattern of administration, we cannot ignore the feelings of the assessees".

7.21. *Appellate Assistant Commissioners to be given Judicial Training—*

However we cannot ignore the fact that if these men were to be deprived of career prospects by being placed under a separate Ministry, they may feel frustrated and this may affect efficiency. Having regard to this factor, we **feel that it will keep both the assessees and the departmental officials satisfied if the Appellate Assistant Commissioners are retained in the Ministry of Finance but are given a judicial training before they start functioning as Appellate Assistant Commissioners.** This was a suggestion made by the Law Commission in its Twelfth Report. In paragraph 101 of their Report, the Law Commission recommended "that the Appellate Assistant Commissioners should be given some training in judicial practice and procedure by being attached to a Judge of a Civil Court i.e. District Judge for a period of say three months." **We endorse this recommendation and commend it for the acceptance of the Government.**

7.22. Another step to improve the appellate machinery would be to post senior officers as Appellate Assistant Commissioners so that their appellate orders would reflect maturity of judgement and avoid further litigation. Some of the Inspecting Assistant Commissioners who met us expressed the view that the appellate orders passed by officers posted as Appellate Assistant Commissioners immediately after their promotion from the grade of Income-tax officers, suffer from all the infirmities the assessment orders suffer from and hence it would be necessary to post as "Appellate Assistant Commissioners" persons who have served at least five years as Inspecting Assistant Commissioners.

We endorse this view not only for the reason stated but because it would reduce the number of litigations in the Department and neither the assessee nor the Department would waste their time filing appeals against a well-reasoned appellate order. We, therefore, suggest that as a general rule, Income-tax Officers on their promotion to the Assistant Commissioner's grade should not be appointed straightway as Appellate Assistant Commissioners but should be appointed as Inspecting Assistant Commissioners and only after five years of service as Inspecting Assistant Commissioners they should be given the appellate charges.

7.23. *Inspecting Assistant Commissioners—*

Powers & Functions of Inspecting Assistant Commissioners—The Inspecting Assistant Commissioner is the administrative link between the Commissioner and the Incometax Officer. Under Section 119 of the Income tax Act, he has powers to issue instructions and directions to every Income-tax Officer working within his jurisdiction. His primary duties are:—

(a) Administrative control of the I.T.O.'s work within his jurisdiction;

(b) Giving guidance to the assessing officers on technical matters relating to assessment and collection;

(c) Inspection and evaluation of the work of the I.T.O.'s working under him; and

(d) Performance of certain statutory functions exclusively vested in him by the Income-tax Act.

7.24. Impressive though this list may seem, in practice only items (a) and (c) have been considered to be the main aspects of the work of an Inspecting Assistant Commissioner. A perusal of the Reports of the Income-tax Investigation Commission and the Direct Taxes Administration Enquiry Committee would show that the institution of the Inspecting Assistant Commissioners had come in for a good deal of criticism as a purposeless link between the Commissioner and the Income-tax Officer. The Report of the Reorganisation of the Income-tax Department of 1956, described it as "more of a halting place for papers from Income Tax Officers and the Commissioner of Income-tax than a forum for positive contribution".

We are happy to record that no such complaint has been made to us in the course of our study possibly because of the extension of the group charges where the Inspecting Assistant Commissioner acts more like a leader of the assessment group than as an isolated critic, ready to pounce on the Income-tax Officer at the slightest excuse. Even so, some of the officers who appeared before us felt that the continuing emphasis placed on the inspections of the Inspecting Assistant Commissioners needs to be minimised having regard to the multiplicity of inspections now in force. Inspection by the Inspecting Assistant Commissioner was probably justified at a time when the Department had not developed any system of conducting a post-assessment check of the work of the I.T.Os so that any mistakes against the revenue committed by him could be detected any time for making appropriate revisions. But, after 1960 with the introduction of the statutory audit by the Comptroller and Auditor General and development of the internal audit by the Department itself, **the Inspecting Assistant Commissioner could be relieved of the inspection duties a good deal so that he might devote his time to the more important task of pre-assessment guidance to the Incometax Officers. We** understand that in group charges the Inspecting Assistant Commissioner does not conduct inspections of the cases which had been completed in consultation with him.

7.25. *Assessment by Inspecting Assistant Commissioners—*

We are glad to find that under the scheme of functionalisation introduced recently in the Incometax Department, the Inspecting Assistant Commissioner will act as the leader of the assessment team. There will not be any further need for actual inspections because most of the important cases would be completed under the direct guidance of the Inspecting Assistant Commissioner. In addition to this, we would suggest that the Inspecting Assistant Commissioner should also be entrusted with the task of making assessments in big cases involving complicated questions of law or intricate manipulations of accounts. We know that there would be psychological resentment in making Inspecting Assistant Commissioner to do the assessment work but we wish to point out that it is nothing unusual for officers of the supervisory category to be entrusted with assessment work appropriate to their level. Under some of the States Sales Tax Acts, officers of this level do make assessments and there is nothing derogatory in their discharging assessment functions. The Incometax Act contains provisions enabling the Commissioner of Incometax to vest the powers of assessment in Inspecting Assistant Commissioners and where assessments are made by the Inspecting Assistant Commissioners, the appellate jurisdiction will lie with the Commissioner. **We recommend that the Department should make full use of these provisions and notify the Inspecting Assistant Commissioners also as Incometax Officers in respect of particular cases or group of cases. For this purpose the Inspecting Assistant Commissions**

themselves should at the beginning of the year, sort out cases which should be dealt with by them and send up proposals to the Commissioner for investing them with concurrent jurisdiction so that they may pass assessment orders after investigations are conducted with the help of the team of the I.T.Os working in the assessment branch. This would go a long way in toning up the quality of assessments and also prevent evasion.

7.26. *Inspecting Assistant Commissioner to be incharge of Internal Audit—*

The Public Accounts Committee has been stressing the need for strengthening the Internal Audit. The Government have taken steps in this regard but in order to increase the efficiency of the Internal Audit, it is necessary to place it under an Inspecting Asstt. Commissioner in each Commissioner's Charge.

7.27. *Pay—*

It has been suggested to us that the pay and the designation of the Assistant Commissioner of Incometax hardly do justice to the extent of the responsibility they are called upon to discharge as members of the Junior Administrative Grade. The scale of pay of an Assistant Commissioner of Incometax is Rs. 1,100—50—1,300—60—1,600, whereas the scale of pay of officers of corresponding grades in other Central Services, where the duties and responsibilities are much less onerous, starts with Rs. 1,300. Thus, an officer promoted to the Junior Administrative Grade in the Incometax Department starts four places below an officer in other Services, such as the IA & AS, IDAS, IRAS and that too only after he completes 13—15 years of service whereas persons junior to them in other Services start officiating in the Junior Administrative Grade much earlier.

Both the Indian Revenue Service Association and the Federation of the Gazetted Officers Association represented to us that there was hardly any justification for this discriminatory treatment, particularly when responsibilities entrusted to them are no less important as those discharged by senior I.A.S. officers. We do not have sufficient data before us to find out on what basis the pay scales for the All-India Services were fixed.

But we have no hesitation in stating that as compared to other Central Services, the officers in the Junior Administrative Grade in the Incometax Department are called upon to discharge duties of a varied character from giving pre-assessment guidance to Incometax Officers to planning searches and seizures, and settling cases involving considerable revenue. Besides, he has also a number of statutory duties to perform and we have suggested in this Chapter and in Chapter II that the Inspecting Assistant Commissioner should take over assessment powers in important cases. In administrative matters he acts as an effective Head of the Department and has control over a Range consisting of Incometax Officers of

both Class I and Class II. An Appellate Assistant Commissioner has powers of judicial review over all assessments without any monetary limit and occupies the same position as a District Judge, in this regard. The Law Commission in its 12th Report recommended an upward revision of the pay scale of the Appellate Assistant Commissioner and suggested that he should be given a pay scale intermediate between the present scale and the scale of a Commissioner. (Page 55, para 102 of Law Commission, 12th Report). We consider that this suggestion is eminently acceptable for the grade of Assistant Commissioners, whether Inspecting or Appellate. There may be a selection Grade in the scale of the Directors in the Ministries of Government of India, and the strength of this grade may be 20 per cent of the whole strength in the cadre of Assistant Commissioners. If this scale is granted it will remove a lot of discontent and frustration now prevalent among officers of this grade in the Department. Efficiency of tax collection depends on effective supervision and this can be achieved only when the officer is freed from anxieties as regards his career prospects.

7.28. *Change of Designation—*

We are recommending later in this Report that the designation of the Incometax Officers Class I should be changed to 'Assistant Commissioners of Incometax' in keeping with the designation given to their counterparts in other Services. In view of this, it is necessary to redesignate the present Assistant Commissioners as Deputy Commissioners of Incometax. We, therefore, suggest that the Inspecting Assistant Commissioner of Incometax should be redesignated as Deputy Commissioner (Inspection and Assessment) and the Appellate Assistant Commissioner should be redesignated as Deputy Commissioned (Appeals). The change in these designations would, of course, involve an amendment of Section 116 of the Incometax Act and other related sections.

7.29. *Incometax Officer—*

The Incometax Officer is the keystone of the Incometax arch. In the words of the 'Investigation Commission,' he is the linch-pin of one of the most important and lucrative branches of the Administration. He performs a difficult task and he is expected to perform it with fairness and with justice to both the State and the citizens. Under the present set-up he is the only authority who brings on record the materials with reference to which the assessments are to be framed. It is on these materials that not only the Incometax Officers' assessments but also the Inspections, the appeals and the references to the High Court and the Supreme Court are based. In the strength of the materials he brings on record lies the strength of assessment and any weakness of the Incometax Officer that might be introduced into the framework of his assessment, weakens the later proceedings right up to the end. (Para 381 of the Report of the Investigation Commission). He must be an expert Accountant and should be able to get to the essentials by breaking down the intricate defences in accounts set up by persons intending to defraud

revenue. He must marshal the facts like an expert lawyer and accountant, but while framing the assessment he is expected to bring a judicial spirit and follow a judicial procedure. To perform such varied tasks, requires ability and character of a high order. Therefore, highest regard is given in all the advanced countries to the recruitment of Incometax Officials and giving them adequate remuneration so that they may stay in Service.

7.30. The development of the Incometax Service in India, we are sorry to record, has been a long story of ad hoc adjustments to meet, from time to time the exigencies created by unprecedented increase in the volume and complexity of assessment work. No attempt was made to find out the special needs and requirements of this Service on a planned long term basis and base the recruitment, training and promotion policies to suit those needs and requirements. Even in the United Kingdom though there is one Civil Service examination for recruitment to all higher Services, there is a separate recruitment programme for the Incometax Service. The officers selected as Inspectors are given separate scales of pay which are higher than their compeers in the general Civil Branch. Even in the United States of America, the pay of the Revenue Agent and Special Agent who are concerned with assessment and investigation work are given a higher scale of pay than the pay of the General Service official. In India, there has always been an attempt to ignore the peculiarities of this Service and equate it to other Central Services. This has bred grievance all round and driven officers either to resign or to resort to Courts for redress of those grievances. We learn from the Central Board of Direct Taxes that 41 officers in Class I and 19 officers of Class II resigned from the service during the year 1956 to 1966 and that there are 102 writ petitions relating to seniority or other conditions of service in the various Courts in India. There is, thus at present, a complete sense of frustration and discontent in the Department and the whole Department looks more like a battle field than an organised disciplined force dedicated to the task it has undertaken. We do not wish to apportion blame on any one on this account but we wish to record that speedy steps should be taken to remove this discontent and put the men back on their work again. In this connection, the following steps may be considered by the Governments :

(a) *Rationalisation of the Class I and Class II Strength*—One of the major difficulties which the Department has faced is the direct recruitment to Class I and Class II of the cadre of Incometax Officers and the absence of any distinction in the matter of work, assessment responsibilities, jurisdiction and powers as between these two classes of officers. There are no posts clearly earmarked for Class I and Class II in the Incometax Department. We have found that many officers of Class II are manning important charges, whereas many officers in Class I are in charge of less important circles.

This has led to a clamour by the Class II officers for equality of status and pay with the Class I officers and the Class I officers to contend that the Class II officers should get no weightage on their promotion to Class I. The official witnesses before the two Pay Commissions, we find, did not, it appears, present a true picture of the situation obtaining in the Department and the version that they gave, namely, that the Class II officers were put to less important work did not truly reflect the position then existing. In the circumstances obtaining in the Incometax Department and in view of the importance of the duties of assessments performed, we consider that this anomaly of two classes for doing the same type of work should go. We, therefore, suggest that all posts of assessing officers should be in Class I and 75 per cent of the existing posts of assessing Incometax Officers, in Class II should be converted into that of Class I. The residual portion of 25 per cent in Class II should be reserved for promotion from the non-gazetted ranks, and the officers so promoted should be assigned non assessment type of duties, such as Administrative Officers, Chief Accounts Officers and Examiners.

To the 75 per cent of the posts converted to Class I, selections should be made from the existing Class II officers on the basis of merit and their seniority vis-a-vis the direct recruits should be determined on the Roster system on a ratio to be determined by Government.

(b) *Change of Designation*—All the Incometax Officers in Class I should be redesignated as Assistant Commissioners of Incometax.

One of the major complaints made to us has been that a person when promoted from Class II to Class I continues to bear the same designation which is not the case in other Departments. The direct recruits to Class I also feel that carrying the same designation as that of a Class II officer does not reflect the higher status and responsibility attached to these posts. Every change in official life must have an "announcement aspect" and, therefore, in keeping with the designation in other Services for officers of equal rank, we consider that as soon as a person gets into Class I, either through promotion or through direct recruitment, he should be designated as Assistant Commissioner of Incometax. In the Indian Audit and Accounts Service, the officer promoted or appointed directly to Class I is known as the Assistant Accountant General. In the Customs Service also an officer on appointment either by promotion or by direct recruitment is designated as the Assistant Collector of Customs. Redesignating Incometax Officers Class I as Assistant Commissioners of Incometax will be in tune with the designations given to officers of equal rank in other Services.

(c) *Pay*—Of all the reforms on the administrative side, the most important one in our view is the revision of the pay scales of Incometax Officers. At present, the scale of pay of Incometax Officers Class I is Rs. 400—400—450—30—510—EB—700—40—1,100—50/2—1,250. This is the scale common to all officers in Class I of the Central Services. Prior to

1959, there were two grades in Class I, Grade II and Grade I, the former grade in the scale of Rs. 350—350—380—30—590—EB—30—770—50—870 and the latter in the scale of Rs. 600—40—1,000—1,000—1,050—1,050—1,100—1,100—1,150 (Senior Scale). Grade I was fixed as a promotion cadre from Grade II and the pay in the Grade I was fixed on promotion of an Officer on a point-to-point basis under rule 9 of the Established Services Rules. Thus, for example, when an officer drawing Rs. 530 in the junior scale was promoted to Grade I, he got, on promotion, Rs. 720 which was the corresponding pay fixed under rule 9 of the Established Services Rules. Thus, on promotion to Grade I, the remuneration was increased and there was a motivation for officers to look forward to that promotion. At the instance of the Second Pay Commission, these two grades were merged depriving Administration of a chance to provide an incentive for officers of grade II. This, coupled with the declining chances of promotion to the cadre of Assistant Commissioners, has provided a cause for grievance to the Incometax Officers. The Service Associations strongly represented to us that the grading system should be revived reintroducing the point-to-point fixation. The Class I Service here has a sanctioned strength of 1,326 officers including officers who have been sent out on deputation. Considering this number, the number of posts available in the senior administrative grade carrying a pay of more than Rs. 1,800 is far too limited working at about 3 per cent. The Indian Revenue Service Association has given us a chart showing how in all the other Services the number and percentage of posts carrying Rs. 1,800 and more are far higher than in the Incometax Department.

We do not, for a moment, suggest that the promotion prospects in all the Services could be or should be the same, but from the figures furnished to us, the conclusion cannot be avoided that there is a good deal of stagnation in the Incometax Service. To remedy the situation, two solutions might be considered:—

(a) To increase the number of super time scale posts;

or

(b) to revise the scale of pay of Incometax Officers so as to provide an integrated scale like the Indian Administrative Service so that every officer who enters the Service may be assured of a reasonable maximum at the time of his retirement.

As regards the first solution, we consider that having regard to the organisational set-up of this Department it would not be possible to increase the posts in the intermediary grades so as to provide adequate opportunities for all those who enter the Department fairly young. The reason for this is that the mode of recruitment in this Department over the past twenty years has been by appointing batches of a large number of officers from both the sources of recruitment, viz., promotion and direct

recruitment in bulk, with the result that direct recruits of three batches are more or less of the same age. Secondly, owing to the peculiarity of recruiting Class II officers directly, more or less from the same source from which the Class I recruits were appointed, some of the promoted officers also fall in the same age group. Hence, merely providing some more posts in the higher administrative cadre would not eliminate the cause for grievance. The only solution, therefore, appears to be to revise the scale of pay and introduce an integrated scale of pay on the same lines as in the Indian Administrative Service. It may be argued that in that event, there would be no incentive for persons to earn further promotions as Assistant Commissioners by putting in meritorious work and that a sense of complacency would overtake the Service. It can further be argued that a person not found fit to be promoted as Assistant Commissioner would still be drawing the same pay as that of an Assistant Commissioner and this would introduce an anomalous situation.

We have taken these factors into consideration and we suggest that the revised integrated scale in the case of Incometax Officers should stop where the revised scale of pay of an Assistant Commissioner, as proposed by us, begins.

7.31. *Deputation of Incometax Officers*—

It has been strongly urged by almost all the officers who met us that officers of the Incometax Service have not had adequate opportunities of going out on deputation and that for a Service consisting of 1,302 Class I officers, only 91 are on deputation. This is a pitiful percentage when compared to the opportunities available to officers of other Services. We entirely agree with this view and we desire in this connection to bring to the notice of the Government the following observations of the Direct Taxes Administration Enquiry Committee[1]—

> "We are convinced that the experience gained by the officers of the Department by deputation to various other connected departments like Economic Affairs, Commerce and Industry, Company Law Administration, Forward Market Commission and various industrial and commercial undertakings in the public sector will be of considerable benefit to the Administration. We, therefore, recommend that every effort should be made to depute sufficiently large number of officers of the Incometax Department to other departments and organisations. It should, however, be seen that officers sent on deputation come back to their parent Department after a specified tenure so that the benefit of their experience is utilised in dealing with tax problems and other officers sent on deputation in their place".

[1]. Para 8·95 page 222 of the Report of the Direct Taxes Administration Enquiry Committee.

We suggest that urgent and full consideration should be given to this recommendation.

In so far as the Class II Incometax Officers are concerned, their designation may be retained as Incometax Officers and their scale of pay may be retained at the existing level. We consider that there should be no direct recruitment to Class II and all the posts in Class II must be filled by promotion from the cadre of Inspectors. We have suggested that 25 per cent of the existing Class II strength of Incometax Officers should be retained for this purpose. In addition, a percentage of the Inspectors' posts may be converted into Class II, for being filled up on promotion by selection. A limited number of Class II Officers may be eligible for promotion to Class I and the percentage in this regard is left to the Government to decide. On promotion to Class I, their seniority will be determined on the basis of the Roster system.

7.32. *Non-Gazetted Executive and Ministerial Set-up*—

In this Department, very little attention has been paid to the recruitment, training and assignment of duties to the non-gazetted staff. One unfortunate feature of the re-organisation scheme, introduced in 1944, was undue emphasis laid on the responsibilities and duties of the Incometax Officers and the dilution of the responsibilities of the Inspectors and the Ministerial staff. Inspectors, under the new set-up were asked to do only outdoor survey work and the ministerial staff were given only routine duties of filling up forms, putting up papers etc. No regulations were made defining the duties and responsibilities of the ministerial non-gazetted staff, and the Incometax Officer was asked to explain even when mistakes were committed by the non-gazetted staff. Further, no attention was paid to the need to give expert training to the non-gazetted staff. This, in the view of the Working Group has been mainly responsible for the deterioration in the efficiency of the Incometax Administration because in the system of administration obtaining today, a good deal of routine work has to be performed at lower levels. In the following paragraphs we deal with some essential aspects of the problems relating to non-gazetted personnel.

(i) *Inspectors (Incometax)*—

7.33. *Inspector not to be given Assessment Powers*—

Incometax Inspectors perform such functions in the execution of the Incometax Act as are assigned by the Incometax Officer or any other authority under whom they work. They occasionally assist the Incometax Officer in the examination of books of account on any specified point. In the Finance Act of 1967, power has been given to the Commissioner to assign to the Inspector any of the functions of an Incometax Officer, as may be considered appropriate. There is also a provision that such power might include assessment powers, search and seizure powers, tax recovery powers, powers relating to levy of penalty provided the Board authorises the Commissioner to vest such powers.

We do not favour entrusting assessment duties to Inspectors. We consider that assessment work involving exercise of discretion of a fairly comprehensive nature should be vested in authority of a sufficiently high level and that was the reason for our recommending that all assessing Incometax Officers should be in Class I. Hence we would suggest to Government that the provision in the Incometax Act enabling Government to vest assessment powers in Inspectors may be deleted.

7.34. *Inspectors' Main Duties—*

The Inspector's main duty should be to detect cases of evasion by outdoor survey work. He should be the eyes and ears of the Incometax Department. With the development of economic activity and the rise in the general level of incomes, there has been a phenomenal increase in the number of persons with taxable incomes and it should be the duty of the Incometax Inspector to bring all such persons with taxable income to the notice of the Department. Further, the Inspector should be constantly on the track of unrecorded transactions, property deals, stock exchange transactions and must maintain a constant flow of information on such matters. Besides, he should assist the Incometax Officer in the matter of preliminary scrutiny of returns, documents and accounts and we have dealt with these duties in Chapter II. These duties and responsibilities should be codified in an Inspectors' Manual, so that their work may be properly controlled and directed.

At present, Inspectors of Incometax are recruited from two sources, viz., (i) by direct recruitment of graduates between the ages of 19 and 23 on the basis of an open competitive examination held by the Department; and (ii) by promotion from ministerial staff who have passed the departmental examination for Inspectors.

The competitive examination is conducted by the Director of Inspection (Incometax) in the various Commissioners' charges. Those who qualify in the written examination are called for an interview and on the basis of the total marks obtained by the candidates, merit lists are prepared separately for each charge and appointments made accordingly.

The ratio of direct recruitment and promotion is 1/3rd and 2/3rd. It may be stated at the outset that even though the basic qualification for direct recruitment is a graduate's degree, preference is given to candidates possessing a First Class in the Degree examination or those with two degrees, one of them being either Law or Accounts.

7.35. *Higher percentage of Direct Recruitment to Inspectors' Cadre and Competitive examination for this purpose by U.P.S.C.—*

As the Inspectors form the first link between the assessee public and the Incometax Department and as in their courteous behaviour, tact and public relations the image of the Department will be projected, we

consider that there should be higher proportion of the direct recruitment from fresh Graduates of the University, and hence the proportion of the direct recruitment and promotion should be 50:50 instead of 1/3rd and 2/3rd as at present.

Further, in order to ensure a more scientific method of selection on better objective standards, we feel that the competitive examination for the Inspectors should be held not by the Department itself but by the U.P.S.C. After all, when the U.P.S.C. is making selection for the posts of Assistants in the Secretariat and also making selection for other equivalent posts carrying the same scale of pay as that of Inspectors, there is no reason why the Department should take away from the purview of U.P.S.C. the selection of the Inspectors.

7.36. *Pay*—

We have recommended in para 7.40 that a new grade of Technical Assistants should be introduced to tone up administrative efficiency at the ministerial level. Since the grade of pay of a technical assistant is identical with that of an Inspector, it will be necessary to revise the scale of pay of an Inspector to be intermediate between the scale of a technical assistant and a Class II officer.

Ministerial Grades—

7.37. *Present position of Ministerial Posts*—

At present, there are several grades of ministerial officers in the Incometax Department. They are—

Description of the post	Scale of pay
Supervisor, Grade I	Rs. 335—20—450—25—475.
Supervisor, Grade II	Rs. 335—15—425.
Head Clerk	Rs. 210—10—290—EB—15—380.
Cashier	Do.
Upper Division Clerk	Rs. 130—5—160—8—200—EB—8—280—10—300.
Lower Division Clerk ..	Rs. 110—3—131—4—155—EB—4—175—5—180.
Stenographer (Selection Grade)	Rs. 210—10—290—15—320—EB—15—425.
Stenographer (Ordy. grade) ..	Rs. 130—5—160—8—200—EB—8—256—EB—8—280—10—300.
Notice Servers	Rs. 75—1—85—EB—2—95.
Gestetner Operator (Senior Grade)	Rs. 110—3—125.
Gestetner Operator (Junior Grade)	Rs. 80—1—85—2—95—EB—3—110.

The Grade I Supervisor's posts are wholly filled up by promotion on the basis of seniority-cum-fitness from Grade II Supervisors. The posts of Grade II Supervisors are again filled wholly by promotion from Head

Clerk's cadre on the recommendations of a Departmental Promotion Committee—the basis being seniority-cum-merit. The Head Clerk's posts are wholly filled from promotion from amongst U.D.Cs. with a minimum qualifying service of five years on the basis of the recommendations of a Departmental Promotion Committee. However, no U.D.C. who has put in less than five years of service can be considered for promotion to the post of Head Clerk.

Thus, in regard to the supervisory posts there is no direct recruitment at all and all posts are filled up by promotion. We found on a study that the duties and responsibilities of all the three supervisory grades are almost the same. In brief, they supervise the work of the clerical staff and also check tax calculations refund, etc. The only difference in the supervisory duties as between the 3 grades is that the Head Clerk is assigned control of 10 clerks whereas Supervisor Grade II supervises the work of between 10 to 30 clerks. Supervisor Grade I is put in charge of a bigger unit having generally more than 30 clerks.

The Direct Taxes Administration Enquiry Committee which examined the question of the gradation of the Supervisors had recommended that though having regard to the nature of work and other factors both the Supervisor's cadre and the Head Clerk's cadre should remain, there is no justification for having two grades among Supervisors. They have observed as follows—

> "In our opinion, Grade II should be abolished and there should be only one grade of supervisors and the present pay scales should be integrated for this purpose. Senior supervisory posts in higher administrative offices like those of the Commissioners and Directorates should be manned by officers of a status higher than the Supervisor.
>
> .....We further suggest that these higher supervisory officers in the offices of the Commissioners and Directors should be of gazetted rank and may be designated as administrative Officers. Such officers should be appointed by promotion from amongst the persons on the basis of selection by merit alone."

This recommendation of the Direct Taxes Administration Enquiry Committee has not yet been implemented by the Government. With the introduction of the functional distribution and allocation of work in the Incometax Offices, it would be necessary to have a Supervisor in each of the three branches, viz. the Administration Branch, the Assessment Branch and the Collection Branch. The duties of the Supervisor under the new scheme in each of these branches will be to supervise the various sections. Therefore, in the new set-up, there would be no justification to have Head Clerks because the unit will be an integrated office consisting of three broad divisions working under the Inspecting Assistant Commissioner. In

non-functional or mofussil circles it is necessary to tone up the administration at the Ministerial level and hence every such office may have a Supervisor as the head of the Ministerial Section. In Chapter IV we have recommended that the Incometax Officer should be relieved of miscellaneous duties such as sending up statistical statements and writing up and maintenance of Registers. As these duties will devolve on the head of the Ministerial Section it is necessary that such a head is of a higher status than of a Head Clerk. We, therefore, suggest the abolition of the post of Head Clerk and the retention of the post of Supervisor in the scale, viz. Rs. 335—20—450—25—475.

7.38. *Upper Division Clerks—*

There are at present 7830 (sanctioned strength) UDCs all over India working in the Incometax Department. We have been informed that the duties of these UDCs include—

(a) applying tax laws with a view to determining tax liability;

(b) Watching payment of Advance Tax and issuing notices therefor; and

(c) issue of notices, maintenance of registers, calculation of tax, issue of reminders for collection of tax, etc.

7.39. This would show that the duties they are called upon to perform are of sufficient importance as to reflect on the administrative efficiency of the Department. Their responsibilities and duties have increased with the establishment of functional circles where a certain degree of expertise is expected. The U.D.Cs. are recruited both by direct recruitment and by promotion from L.D.Cs.—the proportion being 50:50. For direct recruitments, the minimum qualification is a degree of a University and the age limit is between 19 and 23 years. The selection is made through a competitive written examination conducted by the respective Commissioners of Incometax. Those who qualify at the examination are called for an interview. On the basis of their performance at the interview and written test, merit lists are drawn up and appointments made. For promotion from the lower rank i.e. from that of an L.D.C., the minimum service required is three years as L.D.C. and a pass in the ministerial staff examination. The directly recruited U.D.Cs. and experienced L.D.Cs. are given foundational training and an advanced training covering over a period of six weeks at the Headquarters office of each Commissioner's office. The training imparted covers both theoretical and practical aspects and is entrusted to a Supervisor. Two tests are held in the course of the training. During the training they are imparted instructions on the procedural aspects of the Incometax Act and other Direct Taxes, and the training we find, is fairly comprehensive.

7.40. *Conversion of a percentage of U.D.C. posts into Technical Assistants—*

It has been suggested to us that having regard to the technical nature of the duties performed by the U.D.Cs. it would be inappropriate to desig-

nate them as U.D.Cs and give them the scale of pay as given to the other U.D.Cs. working in non-technical offices. It has been stated that a basic cause for the deterioration in the efficiency of the Incometax Department as reflected in the number of mistakes detacted in both the revenue audit and the internal audit is because of the general indifference and inertia shown by the U.D.Cs. After all, in a tax office a good deal of work relating to tax calculation, issue of proper notices, keeping of records, taking prompt action in regard to penalties etc. devolves upon the clerical staff assisting the officer and we agree that unless this cadre is kept on a fairly efficient level, any amount of reform we may suggest for the improvement of the gazetted service will not help in removing the malady. **We, therefore, after careful consideration have come to the view that all the posts of U.D.Cs. in functional units and a 20 per cent of the posts in non-functional circles should be converted to those of Technical Assistants, in the same scale of pay as applicable to the Assistants working in the Central Secretariat Service. Their designation should also be changed into that of Technical Assistants. The designation of other U.D.Cs should be changed as junior Assistant in the same scale of pay as at present sanctioned for U.D.Cs.**

7.41. *Lower Division Clerks—*

With the introduction of the functional system, only work of a very routine nature, such as, issuing reminders and acknowledgements, receiving returns and placing them on the file, issue and despatch of letters, etc., will fall to the lot of the L.D.Cs. We consider that this cadre should be retained but must be kept at the minimum level so that not more than one L.D.C. is sanctioned for one section of each branch. We have no recommendations to make for either in their revision of pay or change in their designation.

7.42. *Morale—*

The key to successful running of an organisation consists in building up and sustaining a high morale for the organisation as a whole. Morale is an elusive concept but nevertheless well understood. As Leonard D. While wrote "Morale is both an index of a sound employment situation and a positive means of building an efficient organisation. It reflects a social-psychological situation, a state of mind in which men and women voluntarily seek to develop and apply their full powers to the task upon which they are engaged, by reason of the intellectual or moral satisfaction which they derive from their own self-realisation, their achievements in their chosen field, and their pride in the service[1]". In the case of persons performing public duties, like the Revenue Department, the importance of maintaining a high morale and to add to the sense of self-respect and dignity of the officials cannot be minimised.

1. "Administration, Public" by While, Leonard D.

7.43. In the course of our study, many of the officials complained to us that the morale of the service as a whole today is at a very low ebb. While we do not take an alarmist view of the situation we have to record that there is a certain amount of lack of pride and absence of zeal and initiative among the officers in the performance of their assessment task. In our discussions we were told that officers are generally reluctant to put forth their best because of—

(a) absence of trust and confidence in their work by the superior officers as is evidenced by the constant criticism of their work and routine investigation of anonymous and pseudonymous petitions against their work and oonduct; and

(b) the criticism of their work by Revenue Audit.

In many of the Commissioners charges we visited, we found that there were cordial relations between the Assistant Commissioners and the Income-tax Officers and there was very little absence of trust or confidence in the officers. It is possible that there may be cases where a Commissioner or an Assistant Commissioner may have viewed with suspicion the work or conduct of an officer but in generality of cases it is not so. **We, however, wish to emphasise that it is a factor of good office management that there must be mutual trust between the Head of the organisation and the sub-ordinates. Morale is held firm by the golden thread of trust and nothing should be done to snap it.**

7.44. *Anonymous Complaints*—

As regards anonymous and pseudonymous petitions, it is true that there is a growing tendency among the public to send such petitions mainly against officers who are honest and un-accommodating. The Direct Taxes Administration Enquiry Committee observed as follows—

> ".. ..... The growing tendency among the public to send anonymous and pseudonymous petitions and complaints which are mala fide and made mainly against honest officers should be discouraged and deprecated. The very fact that a report is called for from the officer concerned or higher authority, as a result of the petition or complaint, affects the morale of the officer. We have to record that, mainly because of this, a tendency is growing among officers to shirk responsibility and avoid taking decisions on their own. This is too serious a development to go unnoticed[1]."

We, therefore, recommend that unless anonymous and pseudonymous petitions contain specific details of a verifiable nature, no notice should be taken of them. This will go a long way in restoring the morale of the officers.

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[1]. Para 8·122 of the Direct Tax Administration Enquiry Committee Report.

7.45. As regards the performance of Revenue Audit, this particular aspect has been the subject matter of study by the Study Team on Accounts and Audit appointed by the Administrative Reforms Commission. This Study Team in its Report, released in September, 1967, has observed as follows—

"It has frequently been urged that the operation of Revenue Audit has led to the rather undesirable consequence of generating a certain sense of fear amongst officers of the Incometax Department who, it is said, are becoming increasingly hesitant in using their discretionary powers in favour of the assessee even in deserving cases. It has also been pointed out that considerable friction exists between the Audit and the Revenue Department in certain areas. We have carefully examined the merits of this contention and have referred, in this connection, to the nature of the comments which appear in the Audit Reports (Revenue). We have also consulted some knowledgeable persons in this regard. In conclusion, we find it hard to understand why Audit activities in themselves, should have a deleterious effect on the initiative and judiciousness of fairly senior Officers of the Revenue Department. It is possible, and indeed likely, that much of the dissatisfaction with the working of Audit arises really from the nature and severity of the follow-up action taken by the administrative authorities themselves. It is understood that till recently, it was the usual practice in the Incometax Department to call for explanations of the officers concerned with regard to all kinds of errors, major and minor, which had been detected by the Audit Authorities. Throughout this process attention was focussed mainly on the facts and features of the individual acts of omission and commission isolated from the surrounding circumstances or the overall performance of which the impugned items may form sometimes only a small part. The mere fact that formal explanations were required to be furnished in respect of each error detected by the Audit was sufficient to give rise to a feeling of frustration in the minds of the officers concerned. It has been brought to our notice that the Departmental practice with regard to the follow-up action on mistakes reported by the Audit has been reviewed recently and the revised procedures contemplate the exercise of discretion and judgement in calling for explanations for the various types of mistakes pointed out by the Audit. We believe that this is a prudent departure from the past procedures and express the hope that the improved procedures will go a long way in reassuring the revenue officials that bona fide mistakes and errors of judgement

on their part will not be viewed with undue severity in isolation from the background of their general performance[1]."

The foregoing extract shows that the real cause is not the audit objections but the follow-up action and the recent step taken by the Government in this regard, namely, not to call for explanations in a routine manner, will, we are sure, restore the confidence of the officers.

Some of the proposals made by us, such as, increasing the scale of pay of Commissioners of Incometax, Assistant Commissioners of Incometax, Incometax Officers, Supervisors and conversion of posts such as, from Class II to Class I, from U.D.Cs. to Assistants, would involve extra expenditure to Government. The question that would arise in this context is, whether it would be appropriate to increase the cost of collection particularly in a climate of economy. In this connection, the cost of collection in India for the years 1959-60 to 1966-67 is given in the table below:—

TABLE 13

(Rupees in lakhs)

Year	Total collection	Cost of collection	Percentage
	Rs.	Rs.	
1959-60	271,36	5,33	2·0
1960-61	291,45	5,87	2·0
1961-62	336,17	6,07	1·8
1962-63	420,44	6,45	1·5
1963-64	537,75	7,03	1·3
1964-65	600,25	8,14	1·4
1965-66	594,36	9,71	1·6

The percentage above is on net collection i.e. Gross collections minus refunds.

If we take the Gross Collections the cost percentage is still lower. The extra expenditure, on a rough calculation, will not carry the cost percentage beyond 2 assuming that the collection will remain at the same figure. We are hopeful that with the increases in their pay and prospects, the Officers and staff of the Department are bound to show enthusiasm and zeal which will be reflected in higher collections and thus keep the percentage of cost at a lower level. As Prof. Kaldor stated that in the matter of attaining efficiency in Tax Administration there should not be "false and misguided economy". A true test of efficiency measurable in terms of cost is the marginal return expected from every additional dose of rupee

[1]. Para 10·11 of the Report of Study Team on Accounts and Audit.

expenditure. So long as a greater return in terms of increased collection is assured it would be unwise to give up the extra revenue by curtailing the additional expenditure.

Sd. MAHAVIR TYAGI
Chairman

Sd. S. N. DWIVEDY
Member

Sd. S. A. L. NARAYANA ROW
Member

Sd. R. N. JAIN
Member

Sd. V. GAURI SHANKER
Secretary

NEW DELHI,
January 31, 1968

SUMMARY
OF
RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

CHAPTER II

SPEEDY DISPOSAL OF ASSESSMENTS

The extent of arrear of assessments (which was about 23.46 lakhs as on 31-3-1967) presents a very dismal picture. However, on an analysis, it is found that out of about 47.65 lakhs of assessments for disposal during the year 1966-67, nearly 42 lakhs of assessments related to small cases yielding a total revenue of about Rs. 20 crores. It is, therefore, necessary to rationalise the distribution of work and cut out infructuous and unproductive work.

(Paras 2.1 to 2.7)

2. For cutting out unproductive work, raising of exemption limit is not favoured, as in a democratic society, every assessee must have a feeling of having contributed to the Exchequer. But personal allowances can be introduced and any hardship in small income cases can be relieved.

(Para 2.8)

3. For disposal of small income cases a system of compounded levy can be introduced for marginal income from business.

(Paras 2.9 & 2.10)

4. In cases of income upto Rs. 10,000 the returns may be accepted straightaway subject to a text-check of 2 per cent by the Incometax Officer.

(Paras 2.8 to 2.13)

5. For incomes between Rs. 10,000 and Rs. 50,000, there should be a more elaborate check on a test percentage basis. The correctness of the return should be checked with reference to the assessee's wealth and quantitative reconciliation of stocks. Since, only a percentage of the assessments are test-checked, a revised form of certificate must be taken from the assessees stating that they are certifying the correctness of the income on penalty of perjury.

(Paras 2.14 and 2.15)

6. In cases of income above Rs. 50,000 there should be cent per cent check and all these cases must be got compulsorily audited by chartered accountants who would append a complete list of points which they have examined, along with the return of income. The more important of these cases should be assessed by the Inspecting Assistant Commissioner himself.

(Paras 2.16 to 2.24)

7. Assessments are delayed by frequent adjournments and more cases are adjourned by the Incometax Officers than got adjourned by the assessees. In order to avoid adjournments, the Incometax Officer should pre-study the

cases and prepare a weekly or fortnightly list of cases for hearing and then only have notices for hearing issued.

(Paras 2.25 to 2.28)

8. Clarifications could be asked for by the Incometax Officer by specifying the points to be clarified, in a separate sheet annexed to the notice of hearing under section 143(2), instead of summoning the assessee to the office without indication of the points.

(Paras 2.29 and 2.30)

9. The Appellate Assistant Commissioner should send a fortnightly list of cases posted by him to the Incometax Officer, so that the latter may refrain from posting these cases on dates of hearing and thus obviate any avoidable adjournment.

(Para 2.31)

10. One of the causes for delay in assessment is non-availability of records. Proper arrangements for custody of records under a Supervisor and for proper recording of the movement of the files should be made.

(Para 2.32)

11. As assessees find it advantageous to delay returns till September of every year or even to delay thereafter on payment of interest, which is less than the market rate of interest, the Law may be amended to provide that in all cases, other than companies, returns should be received by the 30th of June and in cases of Companies by the 30th of September. Interest should run from the expiry of these dates and should carry 12 per cent rate. Reduction or waiver off interest should be only for reasons recorded in writing.

(Para 2.34)

12. The time limit for making assessments should be reduced from 4 to 3 years presently and 2 years ultimately.

(Paras 2.35 and 2.36)

13. The practice of sending return forms to the assessees which causes delays should be given up.

(Paras 2.37 and 2.38)

14. In the cases of existing assessees who fail to file their returns voluntarily, ex-parte assessment should be made permissible without issuing any further notice, by amending section 144.

(Para 2.38)

15. Assessment under section 143(1), accepting the return after making additions for routine inadmissible expenses should be made permissible without issuing a notice under section 143(2), by amending section 143(1).

(Para 2.39)

16. A time limit for making re-assessments under section 146 and pursuant to appellate directions should be prescribed.

(Para 2.40)

17. If the suggestion made in Chapter V that all firms constituted under a Partnership Deed and registered with the Registrar of Firms should be automatically registered, is accepted, the assessments of firms could be considerably expedited.

(Para 2.41)

18. The procedure of making provisional assessments which is time-consuming and unnecessary should be given up and section 141 should be deleted. Section 140A requiring payment of tax on self assessment should be made applicable to all assessees.

(Para 2.42)

19. Concurrent jurisdiction should be vested in more than one Income-tax Officer so that when an Incometax Officer is transferred or goes on leave, the case can be taken up by another officer in the same area. Frequent transfer of jurisdiction should be avoided.

(Para 2.43)

20. Transfer of officers should be minimised.

(Para 2.43)

21. When a case is transferred from one officer to another, all the points examined should be set out by the former so as to avoid going over them all over again by the latter.

(Para 2.44)

22. The time limit of 2 years for completing a penalty proceeding should run from the end of the assessment year in which the assessment was completed and not from the date of the assessment order so as to avoid disturbance of assessment proceedings.

(Para 2.45)

23. The time limit for posting a case after the return is received should not exceed two months.

(Para 2.45)

24. The time limit for issuing an assessment order after the date of the last hearing should not normally exceed a fortnight.

(Para 2.46)

25. The work of the Incometax Officer should be rationalised so that all items of miscellaneous nature can be entrusted to the head of the ministerial section.

(Para 2.47)

26. 16 per cent of the total assessments are assessed as N.A. (No assessment). They should be reviewed and removed from the register, if found infructuous.

(Para 2.48)

27. In regard to Estate Duty, the pendency of assessments is due to disputed valuations. To remove this difficulty, power should be given to the Assistant Controller to apply the same rules relating to valuation of unquoted shares as given in the Wealth Tax Rules, for purposes of Estate Duty.

(Para 2.49)

28. In regard to Wealth Tax and Gift Tax assessments, the arrears of assessments will disappear if a comprehensive return is introduced.

(Para 2.50)

CHAPTER III

PROBLEM OF ARREARS OF TAXES

29. The Income-tax Act provides for pre-assessment collections by way of deduction at source, advance tax, provisional tax and self-assessment and a good portion of the tax collected every year is accounted for under these heads. If these provisions are effectively enforced and fully complied with by the assessees, the arrears of tax should be much less.

(Para 3.3)

30. There has not been adequate arrangement for ensuring that in all cases tax is deducted at source properly and paid into the Treasury in time.

(Para 3.4)

31. In every Income-tax Office there should be a separate Section to watch the monthly returns in regard to the tax deducted at source and to ensure proper compliance of the provisions of deduction of tax at source and its payment.

(Para 3.5)

32. There is no machinery in the Income-tax Department to find out whether in all cases where advance tax has to be levied, the notices for advance tax have been issued. In order to remove this defect, a complete list of all cases where assessees are found liable for advance tax should be prepared and indexed in a register in the months of April and May and brought to the notice of the I.T.O. Thereafter, notices should be issued and the date of the issue of the notice and its service should be entered in the register.

(Paras 3.6 and 3.7)

33. To facilitate quicker issue of notices, the computation of advance tax should be changed from the present method of applying the rate of tax prescribed by the current Finance Act to the total income of the latest completed assessment. Advance tax should be demanded at the same amount of tax as demanded from the assessee for the latest completed assessment.

(Para 3.8)

34. The instalments of advance tax should be reduced from 4 to 3 and made payable by 1st of September, December and March

(Para 3.9)

35. The present practice of issuing advance tax notices to existing assessees liable to pay advance tax should continue.

(Para 3.10)

36. In regard to new assessees, a week prior to the due date of the instalments, advertisement should be inserted in all the Papers inviting their attention to their obligations.

(Para 3.11)

37. Where assessees find that tax payable by them for any year is higher than the tax demanded from them and this difference exceeds 25 per cent, they should pay the advance tax according to their estimates and not as demanded.

(Para 3.11)

38. Interest for non payment of advance tax should be calculated at 12 per cent, rounded off to nearest Rs. 100 and charged with reference to complete months.

(Para 3.12)

39. There should be a change in the method of adjustment of advance tax paid when final assessments are made. The Incometax Officer should be authorised to set off the tax collected in advance on completion of the assessment without waiting for the adjustment by the Treasury.

(Para 3.13)

40. Self-assessment must be made obligatory for all cases and not confined to cases where tax payable is in excess of Rs. 500. The tax on self-assessment should be paid along with the return. The provisions for provisional assessment may then be abolished.

(Para 3.14)

41. The Law should be amended to permit filing of an appeal only when tax on undisputed income included in the assessment is paid. The Estate Duty Act should also be amended accordingly.

(Para 3.16)

42. The appellate orders should be given effect to within three months of the receipt and the original demands rectified wherever relief is given.

(Para 3.17)

43. The tendency to make cumulative assessments by the end of the financial year or when the time bar approaches should be given up.

(Para 3.19)

44. A suitable time limit should be fixed for submission of remand reports asked for by the appellate authorities. If they are not furnished within the time specified, the appellate authorities should be free to dispose

of the appeals without the remand reports and the responsibility of any loss of revenue for non-submission of the remand report should rest on the Income-tax Officer concerned.

(Para 3.19)

45. There should be a time limit for rectification orders on petitions submitted by the assessees.

(Para 3.20)

46. To prevent infructuous assessments and demands being piled up against untraceable assessees, the Income-tax Officer should be allowed to make the assessment without any time limit as and when the assessee becomes traceable.

(Para 3.21)

47. There should be a quicker write-off of irrecoverable demands and for this purpose, high level committees should be constituted both in the Board's office and in the Commissioner's office.

(Paras 3.22 and 3.23)

48. In the case of scaling down of the demands, the agreement should provide that where assets not disclosed by the assessee are discovered later, the whole scaling down agreement would fall through and the assessee would be liable to pay the tax as determined originally.

(Para 3.24)

49. There cannot be any legal provision for holding an Income Tax Officer responsible for an overpitched assessment in the present state of the assessees' accounts.

(Para 3.26)

50. The tax recovery work must be completely taken over by the Centre from the States. The Estate Duty Act should be amended to enable estate duty demands being collected in the same manner as Income-tax demands through tax recovery officers.

(Para 3.27)

51. There should be provision in the Estate Duty Act to prevent transfer of the immovable property left by a deceased intestate without paying Estate Duty.

(Para 3.29)

CHAPTER IV

SIMPLIFICATION OF PROCEDURES WITH A VIEW TO MINIMISING INCONVENIENCE TO ASSESSEES AND AVOIDING UNPRODUCTIVE LABOUR FOR THE ADMINISTRATION

52. In order to educate assessees on their rights and obligations, the Department should issue foundational literature, such as, "Outline of Direct Taxes", Layman's guides, etc., in Hindi, English and other local

languages. Further, small booklets explaining particular aspects of the law and the rules which may be of assistances to the tax payer, such as, determination of liability of non-residents, determination of liability of firms and H.U.Fs. Reliefs and Rebates should be brought out in the local languages.

(Para 4.3)

53. At the beginning of each year, a paper bag folder modelled on the lines of the 'Businessman's kit' issued by the United States of America, should be made available to all assessees. In this Kit, forms of return and other forms which are to be filled by the assessee should be put in.

(Para 4.3)

54. The return forms for assessees with incomes above Rs. 15,000 and for company assessees should be simplified. The existing form running to 30 pages appears to be unnecessary in most cases and therefore there should be a basic form for setting out the total income with provision for annexures with reference to particular heads of income. The annexures should be made available to the assessees at the Income Tax Counters.

(Para 4.4)

55. One of the difficulties experienced by the Department is getting the return forms in time to be distributed to the assessees. The Commissioners of Income-tax should be empowered to have the forms printed in the local press and to make them available to the assessees not only through the Income-tax Officers but also through the post offices. Further, assessees should be permitted to print their own forms.

(Para 4.5)

56. Notices for hearing should not be issued in a routine manner for all assessees. Notices under Section 143(2) and 142(1) should be combined. Where it is felt that clarifications are necessary, a specific list of points on which such clarifications are required, should be attached to the notice.

(Para 4.6)

57. Assessees should be given 7 clear days from the date of the service of the notice for appearing before the Income-tax Officer.

(Para 4.7)

58. Notices should be sent to the assessees' representatives and not to the assessees wherever the former have the power to receive such notices.

(Para 4.8)

59. Facilities should be provided to the assessees to pay income-tax at the cash counter to be opened in the Income-tax Offices. For each assessee, a ledger account should be opened in which all amounts paid by him or due to him by way of refund will be credited and in which all amounts payable by him will be debited, and periodical balances struck. This will eliminate much of the harassment now caused to the assessees by asking them to pay tax even when some refunds are due to them.

(Paras 4.9 and 4.10)

60. In the refund voucher form, the advice to the bank should be printed as a perforated annexure so that I.T.Os. will despatch the advice form to the Bank simultaneously with the issue of the refund voucher. This will eliminate delays in encashment of refunds.

(Para 4.11)

61. Necessary safeguards in the scheme for collection of tax in cash should be provided.

(Para 4.12)

62. An Income-tax Arbitration Tribunal should be set up to which assessees may appeal on disputed facts after the Appellate Assistant Commissioner disposes of the matter. Where an appeal is preferred to this Arbitration Tribunal, the regular appellate procedure will be barred and the Tribunal's award should be binding on both the Department and the assessee.

(Paras 4.13 to 4.15)

63. The Department should introduce a 'Readers' Column' in the bulletins issued by it for sale to public for providing answers to questions. The bulletin also should be re-designed and brought out by a separate Editorial Board as a full-fledged journal, reasonably priced.

(Para 4.17)

64. The functional scheme will be effective if care is taken to achieve co-ordination between the Assessment Branch, the Collection Branch and the Administration Branch and impediments to movement of files removed.

(Para 4.18)

65. A number of time-consuming procedures can be removed by adopting time saving devices and eliminating infructuous work. The time saving devices should include introduction of addressographs, calculating machines and other mechanical aids, employing the use of computers for verification of employers' returns, combining the several proceedings for one hearing, eliminating office copies of various notices issued.

(Para 4.19)

66. Calculation of interest should be simplified by providing for its calculation with reference to complete months and rounding of the amount of tax to the nearest Rs. 100.

(Para 4.20)

67. To simplify calculation of tax income under each head as well as deductions for relief should be rounded off to the multiples of Rs. 10.

(Para 4.21)

68. Subject to the concurrence of the Comptroller and Auditor General of India, no case should be re-opened on account of audit objection if the revenue involved is less than Rs. 50.

(Para 4.22)

69. Out of the various registers to be maintained and statistical returns to be furnished by the I.T.Os., 14 registers and 34 returns should be discontinued as they do not serve any useful purpose.

(Para 4.24)

CHAPTER V

NEEDLESS COMPLEXITIES IN THE TAX LAWS AND SUGGESTIONS FOR REMOVING THEM

70. There should be a halt to the frequent amendments to the Income-tax Law. No amendment should be proposed to get round an adverse decision of the Courts. When amendments are proposed, their total effect should first be studied and all amendments in the Act should be made through a separate Direct Taxes Amendment Act and not through the Finance Acts. Before Rules are amended, views of all Commissioners of Incometax and leading professional and trade bodies should be obtained.

(Para 5.1)

71. Tax year and accounting year should not be made co-terminus and the concept of 'previous year' should not be abolished altogether.

(Para 5.2)

72. The choice allowed to assessees to have several previous years should be withdrawn and a standard previous year prescribed gradually. To begin with, a standard previous year may be prescribed for companies, which may be a calendar year. For this purpose, section 3 has to be amended.

(Paras 5.3 and 5.4)

73. The complicated definition of a 'Not ordinarily resident' should be deleted from the Act and all assessees should be classified as 'Residents' or 'Non-residents'. Section 6(6) should accordingly be deleted.

(Para 5.5)

74. The concept of a company in which the public are not substantially interested should be given up and the same categorisation as given in the Company Law, namely, public companies and private companies should be introduced for all the purposes for which the differentiations between the public companies and companies in which the public are not substantially interested obtain. If, however, it is desired to impose some curb on controlled companies, section 2(18) defining such companies may be amended to simplify the definition.

(Paras 5.7 to 5.10)

75. All firms constituted under an instrument of partnership and registered with the Registrar of Firms should be automatically regarded as Registered firms and separate registration proceedings in such cases should be avoided. The definition of a Registered Firm should be amended accordingly.

(Paras 5.11 and 5.12)

76. The tax paid by a registered firm should be allowed as a deduction from the total income of the firm and the balance income should be distributed among the partners in proportion to their share ratios.

(Para 5.13)

77. The tax on a registered firm should be levied not with reference to the firm's total income but with reference to the number of partners and should range between 10 per cent and 15 per cent instead of between 6 per cent and 12 per cent.

(Para 5.13)

78. Depreciation rates should be rationalised by consolidating the existing rates into five groups ranging between 5 per cent and 30 per cent. Depreciation should, however, be restricted to the actual amount written off in the books.

(Para 5.15)

79. The Consolidation of depreciation rates should be on an industry-wise basis, the industries being grouped in accordance with the Industrial Development and Regulation Act.

(Para 5.15)

80. The original cost of all assets less than Rs. 1,500 should be allowed as revenue expenditure.

(Para 5.15)

81. Books should be excluded from the definition of plants and cost of books purchased for bonafide purposes of business or profession should be allowed as a revenue expenditure.

(Para 5.16)

82. In the case of seasonal factories, depreciation should be allowed taking the season as a full year. Full depreciation should be allowed if the factory balance worked for half or more of the season, half depreciation if it has worked less than half of the season but more than one month and no depreciation should be allowed for working less than one month.

(Para 5.16)

83. Depreciation should continue to be allowed on the basis of Written Down Value, as it is a more appropriate method than the straight-line method.

(Para 5.17)

84. For computation of salary income, assessees must be given an option of a standard deduction of 10 per cent of the gross salary in lieu of itemised deductions which they have to prove before the Incometax Officer, in addition to deductions for Life Insurance Premia, Provident Fund Contributions etc. and should be taken into account for deducting tax at source.

(Para 5.18)

85. In the case of income from property, the present method of taking the gross annual value at a hypothetical figure should be given up and property income should be determined on the basis of the municipal valuation or actual rental received whichever is higher. Necessary provision in Section 23 should be made.

(Para 5.19)

86. In regard to the deductions of items of expenditure not relating to the construction or maintenance of the property, such as interest on mortgage charge or annual charge should not be allowed. Section 24(iii) and (iv) should be deleted.

(Para 5.20)

87. In the place of the enumerated deductions for ascertaining business income, the law should provide a single omnibus section for allowing deductions for all losses and outgoings to the extent they are incurred for gaining and producing an assessable income or are necessarily incurred in carrying on a business or profession for the purpose of gaining or producing such assessable income, except where such losses or outgoings are of a capital, private or a domestic nature or are incurred for producing an exempt income.

(Para 5.21)

88. Where on grounds of policy, certain items of a capital nature such as, depreciation, scientific research, patent and corporate fees, are to be allowed, they may be listed separately.

(Para 5.21)

89. Where certain items of revenue expenditure are to be allowed only to a restricted extent or are not to be allowed, they may be listed separately.

(Para 5.21)

90. For computing the profits of an industrial undertaking, the basis must be changed from 6 per cent of the capital employed to 6 per cent of the paid-up capital.

(Para 5.22)

91. There should be a rationalisation in the matter of application of incometax rates for companies and simplification in the categorisation of companies.

(Para 5.23)

92. The system of applying different rates depending upon the income of a company should be given up and all private companies should be charged at a rate higher than the public companies. If incentives are to be given to industrial companies, they may be provided for not through the Incometax Act but separately through a cash incentive scheme.

(Para 5.23)

93. There is an element of double taxation in regard to dividends. Relief can be given in this regard either by allowing a deduction from the gross dividends in the hands of the shareholders or by taxing the distributed profits of a company at a concessional rate and taxing the shareholders at the full rate, without allowing any deduction from intercorporate dividend.

(Para 5.24)

94. Dividend should include bonus shares also, whether there is a release of assets or not.

(Para 5.25)

95. Where a loan or advance is given by a controlled company to more than one shareholder, the amount of loan or advance to be treated as dividend should be proportionate to their shareholdings.

In regard to dividend income, the law should provide for deduction of only—

(a) interest for capital borrowed; and
(b) remuneration for realising the dividend.

(Paras 5.26 and 5.27)

96. Personal taxation requires to be simplified.

(Para 5.28)

97. Exemption limit should not be raised because that would keep out of the Department's eye many potential tax payers and may act as a screen for tax evaders. Further, a pervasive tax consciousness is necessary as a preventive against tax evasion and, therefore, there should be no exemption limit but a high personal allowance should be given. The maximum of this allowance for married individuals with two children should be Rs. 5,000 and for H.U.Fs. should be Rs. 10,000.

(Para 5.29)

98. The first four slabs i.e. up to Rs. 20,000 (before making a personal allowance) should be integrated in one slab and a basic rate of tax of 15 per cent should be charged. This basic rate should apply to all slices of income even above this figure, but where the total income exceeds this figure (i.e. Rs. 20,000), additional tax should be imposed progressively according to the rising slabs of income. These rising slabs should end at Rs. 75,000 and the maximum rate of tax should be kept at the existing maximum, viz. 65 per cent without taking into account the surcharge.

(Para 5.30)

99. The distinction between the earned and the unearned income should go and the surcharges on unearned income and earned income above Rs. 1 lakh should also go. To make up the losses of revenue, the general surcharge may be increased by an addition of $2\frac{1}{2}$ per cent to the existing 10 per cent.

(Para 5.31)

100. The Annuity Deposit Scheme should be scrapped and in its place, a compulsory deposit scheme for incomes over Rs. 15,000 should be introduced.

(Para 5.32)

101. The Tax Credit Certificate Schemes have proved a failure and they should be removed from the Income-tax Act.

(Para 5.33)

CHAPTER VI

TAX EVASION

102. Tax avoidance is a problem which has to be tackled from experience and the Administration must always be on the watch and should take immediate remedial steps as soon as they come up against attempts at avoidance.

(Para 6.1)

103. Tax evasion is a perennial problem and has to be fought by spotting out the sectors where this evasion is concentrated.

(Paras 6.4 and 6.5)

104. An analysis of the dimensions of tax evasion discloses that there is unmistakable evidence of practice of tax evasion in the country and in spite of several measures taken by the Government, this continues on a disturbing scale and that tax evasion is concentrated in upper income brackets and is relatively insignificant in the lower income brackets.

(Paras 6.6 and 6.7)

105. High rate of taxation has not been proved to be the main cause of evasion.

(Para 6.8)

The causes of tax evasion are:—

(a) the general depreciation of money owing to inflation;
(b) concentration of contracts and licences in the hands of a few established groups;
(c) evasion of other tax liabilities, such as, Sales Tax and Central Excise;
(d) emergence of on-money owing to operation of controls;
(e) the general social attitude to taxation which is conducive to tax evasion; and
(f) ineffective Tax Administration.

(Para 6.9)

The avenues of evaded money are:—

(i) deposits with indigenous bankers in fictitious names;

(ii) purchase of gold and jewellery and keeping them in Safe Deposit Vaults or secret home-chests;

(iii) purchase of raw materials and stocks without bills;

(iv) purchase of and hoarding of grain stocks;

(v) purchase of quota and licences goods;

(vi) purchase of smuggled goods to be sold without bills;

(vii) payment of on-money towards purchase of property;

(viii) payment of premium towards purchasing running concerns etc.;

(ix) payment of 'Pugree' for securing residential properties;

(x) utilisation of secret amount held in foreign countries for import of goods by under invoicing;

(xi) purchase of unauthorised foreign exchange to meet expenditure on visits abroad;

(xii) levish household and personal expenditure;

(xiii) meeting expenses on marriages etc.; and

(xiv) payment of bribes.

(Para 6.10)

106. To tackle tax evasion, administrative processes and procedures must be tightened in the following manner—

(a) Survey Circles should be established in all the charges and in larger cities. An Inspecting Assistant Commissioner should be placed exclusively in charge of the survey. A full complement of Inspectors to carry door to door external survey and for intensive internal survey should be provided to each survey circle.

(b) The work of Special Investigation branches attached to the offices of the Commissioner of Incometax should be rationalised and these branches should function effectively as a coordinating section.

(c) Proper arrangements for extracting useful information by internal survey and its effective utilisation should be made.

(d) An All India Registration Number should be introduced for all assessees under the provision that this All India Registration Number should be quoted when an assessee applies for licences, quotas, contracts, etc. The same number should be quoted while applying for property transfers or opening bank accounts etc. If a person has no assessable income, he should be asked to give a declaration that he is not assessed to incometax and that declaration should be sent to the Investigation Branch for verification in due course.

(e) Introduction of an integrated return for all taxes other than Estate Duty, will facilitate effective cross verification of the correctness of the income wealth and gifts and prevent tax evasion.

(f) The return form should carry a certificate from the assessee that he has examined the return, the accompanying schedules and statements and declares under penalties of perjury that they are correct, complete and true.

(g) The machinery relating to investigation and prosecution of tax offences, should be strengthened and centralised and all cases of suspected tax evasion should be transferred to the Central Commissioners' charges who will function under the direct supervision of Member, Investigation.

(h) Prosecution should be launched in all cases of proved evasion and the temptation to accept a monetary penalty should be avoided in those cases.

(i) Where prosecution is not feasible, deterrent penalty should be levied and the penalty should be confiscatory in character.

(Paras 6.11 to 6.29)

107. The legal provisions to safeguards against tax evasion are —

(a) It should be provided in the Law or the Rules that every assesee should declare in his return not only those assets and incomes ostensibly owned by him but also those assets and incomes of which he is the beneficial owner.

(b) The incomes of husband and wife should be aggregated for the purpose of assessment, as it is seen that in many cases incomes earned by the husband are shown as having been earned by ladies and tax thereon is evaded.

(c) Provision must be made that the accounts produced in support of the return of income shall be deemed to be part of the return so that any falsity in the accounts can be a ground for prosecution and penalty.

(d) Provision should be made that every assessee should append a certificate on the last page of the account books that no transactions have been kept outside the books and the accounts are true, correct and complete.

(e) The Law may be amended that no indigenous broker or hundi broker or a person engaged in money lending, other than a banking company, should possess a cash balance exceeding Rs. 20,000 and that every payment made or amount received by him in excess of Rs. 10,000 should be by way of a crossed account payee cheque. Cash held outside the books should not exceed Rs. 5,000.

(f) In all other cases, the limit of holding cash in the account books should be Rs. 50,000 and where excess amounts are required, they should be drawn from the bank and intimation to the Incometax Officer should be given.

(g) In order to find out the true valuation of property transactions, the Board should be assisted by expert valuers. These valuers should have zonal offices in Bombay, Calcutta, Delhi and Madras, and should offer expert assistance to the Incometax Department wherever question of under-statement of property's value arises. Where such under-valuation is detected, the Law should be amended to enable the Department to challenge the transfer in the same way as the Registrar is vested with the powers to challenge a transaction for the purposes of Stamp Act.

(h) It is worthwhile to examine whether it cannot be provided that the Government would have an option to purchase the property at the declared value plus 5 per cent or 10 per cent over it.

(i) The Law must be amended that no transactions in jewellery exceeding Rs. 10,000 are made except through authorised dealers.

(j) Amendment of the Law may be considered to provide that agricultural income may be taken for rate purposes.

(Paras 6.30 to 6.42)

108. To bring home to the tax evader the crime he is committing against the society, the following steps are necessary—

(a) A person found guilty of tax evasion should be regarded as a social outcaste and no Association, or Institution or party should ask for or accept any gifts or donations from such a person.

(b) There should be a ban on Ministers and Government officials attending parties thrown by him or held to honour him. The Members of the Legislature should also build up a convention of not attending such functions.

(c) In order to identify such persons the Government should publish every six months a list of all persons who are found guilty of tax evasion and penalised for such offences. This list should be published not only in the Gazette but in all local Papers.

(d) The Incometax Officer should put on the notice board a list of all assessees in his jurisdiction with their returned and assessed incomes for the view of the public. Such a publicity would prevent persons from understating their incomes.

(e) The Ministry of Information and Broadcasting should be requested to produce feature films depicting the harm caused by

a tax-evader to the country's economy showing how by concealing income and reducing his tax liability he is shifting the burden to the honest tax payer. Through Television Radio and Speeches features, in non technical languages should be arranged to educate tax payers' obligations and to make it difficult to tax evaders to carry on tax evasion.

(Paras 6.43 to 6.46)

CHAPTER VII

ADMINISTRATION

109. In the interest of efficiency, it is necessary to separate the dual functions of the Central Board of Direct Taxes i.e., policy making functions and policy implementing functions. The Central Board of Direct Taxes should be a purely policy implementing body.

(Paras 7.3 to 7.5)

110. The Central Board of Direct Taxes should be reconstituted on the lines of the P. & T. Board with a Chairman of the rank of the Secretary to the Government of India, a senior Member of the rank of the Additional Secretary to the Government of India and four Members of the rank of Joint Secretaries to the Government of India.

(Para 7.6)

111. With the immediate necessity to reorganise the personnel wing of the Board, it is necessary to have a separate Member for Establishment and Administration.

(Para 7.7)

112. The different statistical organisations functioning under the Board should be merged and brought under the direct control and guidance of the Senior Member of the Board, incharge of Tax Planning and Assessment.

(Para 7.8)

113. All the Officers of the newly constituted Board should be from the field. The Board's division should be under officers of the rank of Directors in the Ministries of Government of India. The seniormost of such officers should be incharge of Administration and should also function as Secretary to the Board.

(Para 7.9)

114. The Directorate of Inspection (Incometax) should be abolished and its functions of Inspection and Audit should be taken over by the Board with two separate wings.

(Para 7.10)

115. The Directorate of Inspection (Investigation) should be abolished and its functions should be entrusted to a Member of the Board.

(Para 7.11)

116. The Directorate of Inspection (Research, Statistics and Publications) should be abolished and its functions should be taken over by the Board.

(Para 7.12)

117. Both in regard to administration and technical matters, the Commissioners of Incometax should have greater freedom than at present given to them.

(Para 7.14)

118. The jurisdiction of the Commissioners of Incometax should be reorganised on the principle of one State—one Commissioner, subject to administrative considerations relating to economy. In Bombay and Calcutta there should be separate Commissioners for recovery work.

(Para 7.15)

119. The pay scale of the Commissioners of Incometax should be made equal to that of Members of the Incometax Appellate Tribunal.

(Para 7.16)

120. Appellate Assistant Commissioners should be given a judicial training before they start functioning as Appellate Assistant Commissioners.

(Para 7.21)

121. Only senior officers should be posted as Appellate Assistant Commissioners. As a general rule, Inspecting Assistant Commissioners with service of not less than five years in that post should be appointed as Appellate Assistant Commissioners.

(Para 7.22)

122. The Inspecting Assistant Commissioners could be relieved of the Inspection duties a good deal, so that they might devote the time to the more important task of pre-assessment guidance to the Incometax Officers.

(Para 7.24)

123. The Inspecting Commissioners themselves should make assessment in big cases involving complicated cases of law or intricate manipulations of accounts.

(Para 7.25)

124. In order to increase the efficiency of the internal audit, it is necessary to place it under an Inspecting Assistant Commissioner in each Commissioner's charge.

(Para 7.26)

125. The Assistant Commissioner, whether Inspecting or Appellate, should be given a pay scale intermediate between the present scale and the scale of a Commissioner. There may be a selection grade in the scale of Directors in the Ministries of Government of India and the strength of this grade may be 20 per cent of the whole strength in the cadre of Assistant Commissioners.

(Para 7.27)

126. The Inspecting Assistant Commissioners of Incometax should be redesignated as Deputy Commissioners (Inspection and Assessment) and the Appellate Assistant Commissioners should be redesignated as Deputy Commissioners (Appeals).

(Para 7.28)

127. All posts of assessing officers should be in Class I and 75 per cent of the existing posts of assessing Incometax Officers, in Class II should be converted into that of Class I. The residual portion of 25 per cent in Class II should be reserved for promotion from the non-gazetted ranks, and the officers so promoted should be assigned non-assessment type of duties, such as Administrative Officer, Chief Accounts Officers and Examiners.

(Para 7.30)

128. All Incometax Officers in Class I should be redesignated as Assistant Commissioners of Incometax. The pay scale of an Incometax Officer should be an integrated scale and should end where an Assistant Commissioner's proposed scale begins.

(Para 7.30)

129. Incometax Officers should be sent out on deputation in increased numbers.

(Para 7.31)

130. There should be no direct recruitment to Class II and all the posts in Class II must be filled by promotion from the cadre of Inspectors. We have suggested that 25 per cent of the existing Class II strength of Incometax Officers should be retained for this purpose. In addition, a percentage of the Inspectors' posts may be converted into Class II, for being filled up on promotion by selection. A limited number of Class II Officers may be eligible for promotion to Class I and the percentage in this regard is left to the Government to decide. On promotion to Class I, their seniority will be determined on the basis of the Roster system.

(Para 7.31)

131. Assessment duties should not be entrusted to Incometax Inspectors. The provision in the Incometax Act enabling Government to vest assessment powers in Inspectors may be deleted.

(Para 7.33)

132. There should be a higher proportion of the direct recruitment to the cadre of Incometax Inspectors. The proportion of the direct recruitment to promotion should be raised from the present 33-1/3 per cent to

50 per cent. The direct recruitment should be made through the Union Public Service Commission by holding competitive examination.

(Para 7.35)

133. The scale of pay of Inspectors should be revised to be intermediate between the scale of a Technical Assistant and a Class II officer.

(Para 7.36)

134. The post of Supervisor in the scale of Rs. 335—20—450—25—475 should be retained and the post of Head Clerk should be abolished.

(Para 7.37)

135. All posts of Upper Division Clerks in functional units and 20 per cent of the posts in non-functional circles should be converted to those of Technical Assistants, in the same scale of pay as applicable to the Assistants working in the Central Secretariat Service. Their designation should also be changed into that of Technical Assistants. The designation of other U.D.Cs. should be changed as Junior Assistant in the same scale of pay as at present sanctioned for U.D.Cs.

(Para 7.40)

136. The cadre of Lower Division Clerks should be retained but must be kept at the minimum level.

(Para 7.41)

137. There must be mutual trust between the head of the organization and the subordinates to hold the morale firm.

(Paras 7.42 and 7.43)

138. Unless anonymous and pseudonymous petitions contain specific details of a verifiable nature, no notice should be taken of them. This will go a long way in restoring the morale of the officers.

(Para 7.44)

ANNEXURES

ANNEXURE 1

(See Para 2.6 of Chapter II)

Income-tax—Analysis of Disposed of and pending assessments according to categories of Income during the years, 1959-60 *to* 1966-67

(Assessments in thousands)

Year	No. of cases with business income exceeding Rs. 25,000 (Cat. I)			No. of cases with business income of above Rs. 10,000 but not exceeding Rs. 25,000 (Cat. II)			No. of cases with business income of above Rs. 5,000 but not exceeding Rs. 10,000 (Cat. III)		
	For disposal	Disposed of	Balance	For disposal	Disposed of	Balance	For disposal	Disposed of	Balance
1	2	3	4	5	6	7	8	9	10
1959-60 ..	124	83	41	223	165	58	361	263	98
1960-61 ..	140	88	52	253	176	77	408	281	127
1961-62 ..	145	88	57	155	98	57	351	222	129
1962-63 ..	151	87	64	166	99	67	387	230	157
1963-64 ..	154	74	80	157	81	76	395	208	187
1964-65 ..	178	80	98	181	85	96	475	223	252
1965-66 ..	216	96	120	214	99	115	558	259	299
1966-67 ..	274	133	141	256	120	136	624	288	336

Source—Information furnished by the Central Board of Direct Taxes.

ANNEXURE 1—contd.

(Assessments in Thousands)

Year	No. of cases with business income upto Rs. 5,000 and non-business cases (excluding salary) with income above taxable (Cat. IV)			No. of cases not covered by the categories (largely salary cases) (Cat. V)			Total		
	For disposal	Disposed of	Balance	For disposal	Disposed of	Balance	For disposal	Disposed of	Balance
1	11	12	13	14	15	16	17	18	19
1959-60 ..	391	261	130	573	391	182	1672	1163	509
1960-61 ..	432	266	166	593	396	197	1826	1207	619
1961-62 ..	775	493	282	596	408	188	2022	1309	713
1962-63 ..	866	507	359	648	386	262	2218	1309	909
1963-64 ..	1298	696	602	705	424	281	2709	1483	1226
1964-65 ..	1817	844	973	978	612	366	3629	1844	1785
1965-66 ..	2354	1114	1240	1216	821	395	4558	2389	2169
1966-67 ..	2554	1197	1357	1057	680	377	4765	2418	2347

Source—Information furnished by the Central Board of Direct Taxes.

ANNEXURE 2

Return of Incomes

G.I.R. No.:..... A.I.R. No.	Assessment year .....
Ward/Circle:.....	Previous year(s) ending.....
Place of assessment :.....	
If Individual State : Whether Married : No. of dependent Children.....	Name of the Assessee.....
	Address :—Office.....
If Hindu undivided family : State No. of members (other than minors lineally dependant from another living member) entitled to claim partition as at the end of the previous year.	Residence.....
	Residence : Res ident/Non-Resident (Score out inapplicable word)
	Status : Individual / Hindu undivided family / Firm / Association of Persons / Body of Individuals / Local Authority / Other Juridical person (Score out in rules applicable words).
If a firm/Association of persons/Body of Individuals State : Name and address of the firm/Association/Body	
Name and address of each Partner and if any minor admitted to partnership/member	
Relation of such minor to other Partners/ Members	
Is the Partnership constituted under a deed of Partnership and Registered with the Registrar of Firms (if so, certified copy of such deed and certificate to be attached).	

PART I—*Statement of Total Income*

1. *Salaries*

	Gross Income	*Allowable Expenses Incurred*	*Amount of total Income*		
Name and Address of the Employers	Salary : Rs. .... Perquisites Rs. .... Profits in lieu of Salary : Rs. .... Total. Rs.....	Conveyance : Rs. .... Books : Rs. .... Professional Taxes : Rs..... Others : Rs..... Total. Rs.....NET :	Indian Rs.	Foreign Rs.	Total Rs.

2. *Interest on Securities*

	Gross Income	*Allowable Expenses Incurred*			
Name and Address of the Payer.....	Rs. ..... Rs. ..... Rs. ..... Total Rs.	Collection charges : Rs..... Interest on Money borrowed for Investment Rs..... Total Rs..... NET :			

PART I—*Statement of Total Income*—contd.

3. *Income from Property*

Gross Income	*Allowable Expenses incurred/Exemptions*	*Amount of Total income*		
		Indian	Foreign	Total
No. and Address of the Property : Rs.....				
..... Rs.....	Municipal Taxes : Rs.....			
..... Rs.....	Exemption for new Property : Rs.....			
Self-occupied property : Rs.....	Deduction for self-occupied property : Rs.....			
Total : Rs.....	Total : Rs.....			
	Repairs (1/6th) : Rs.....			
	Collection Charges : Rs. ..			
	Interest on Capital borrowed : Rs.....			
	Others : Rs.....			
	Total : Rs.....NET:			

4. *Profit & Gains of Business or Profession*

Gross Income	*Allowable Expenses Incurred*			
Name and Address of Business or Profession ..... Rs.....	(Give particulars of each)			
..... Rs.....				
Total : Rs.....	Rs.....			
	Rs.....			
	Total : Rs.....NET :			

5. *Capital Gains*

Gross Gains	*Expenses Incurred*			
Particulars of the assets sold or Rs.	Expenses : Rs.....			
transferred etc..... Rs.....	Interest : Rs.....			
	Brokerage : Rs.....			
Total : Rs.....	Total : Rs.....			

6. *Income from other sources* :

(*a*) *Dividends*

Gross dividend	*Expenses Incurred*			
Name of Company :	Interest on borrowed money for investment: Rs.....			
..... Rs.....				
..... Rs.....	Collection Charges : Rs.			
Total : Rs.	Total: Rs. .....NET :			

PART I—*Statement of Total Income*—concld.

(*b*) *Interest*

Gross Interest	*Expenses Incurred/ Allowances Claimed*	*Amount of Total income*		
		Indian	Foriegn	Total
Name and Address of payer : .... Rs..... ..... Rs..... Total : Rs.....	Interest on money borrowed for investment: Rs..... Collection charges : Rs..... Bad debts : Rs..... Total: Rs..... NET:			

(*c*) *Any other Income*

Gross Income	*Expenses claimed*			
From whom received (nature of receipt to be given) : Rs..... ..... Rs..... ..... Total : Rs.....	Rs..... Rs..... (Particulars of Expenses to be given) Total: Rs..... NET: TOTAL: INCOME			

PART II—*Deductions Allowable*

(*i*) Life insurance Premium : Rs.....
(*ii*) G.P. Fund etc. : Rs.....
(*iii*) Other deductions if any : Rs.....

Total : Rs..... Allowable : Rs.....

Net Taxable Income Rs.....

Tax Payable thereon Rs.....

Particulars of tax paid

Tax paid in advance by Challan No.(s).....dated.....in.....Rs.....
Tax paid on self assessment : Challan No.....dated.....in.....Rs.....
By deduction at source from.....as per certificates attached Rs.....

Total Tax Paid : Rs.....
Balance tax payable : Rs.....

Balance Tax payable has been paid/is being paid as under :—

Challan No. .....date.....in.....Rs.....
Cheque No. .....date.....on.....Rs.....

VERIFICATION

I, ... son/daughter/wife of Shri ..... solemnly declare under penalties of perjury that the statements in this return are true and correct to the best of my knowledge and belief.

(Signature)

Date.....
Place.....

Name of the Signatory
Capacity in which signed.

ANNEXURE 3

[See Para 2.13(iv), Chapter II]

G.I.R. No. .....

Incometax Office.....
Ward/Circle.....
Place.....
Date.....

To

.....

.....

Whereas a return of income has been filed by you, the same has been accepted under Section 143(1) of the Income-tax Act, 1961.

(Signature)
Incometax Officer
Ward/Circle.....

Office Seal.

ANNEXURE 4

[See Para 2(13)(c), Chapter II]

Notice under Section 143*(2)/142*(1) *of the Incometax Act,* 1961

G.I.R. No. .....

Office of the *Incometax Officer
*Assistant Commissioner of Incometax
Ward/Circle/Range.....
Place.....
Date.....

To

.....

.....

In connection with the assessment for the assessment year..... for which you have not* filed a return under section 139 of the Incometax Act, 1961, you are hereby required to attend either in person or by representative duly authorised in this behalf, in writing, and produce or cause to be produced at my office on..... at.....

* any document, account or other evidence on which you may rely in support of the return filed by you.
* the accounts and/or documents specified below/replies to the points specified in the attached sheet.

Failure to comply with all the terms of this Notice will entail an ex-parte assessment and consequential penalty and/or prosecution.

**Income-tax Officer*
**Asstt. Commissioner of Income-tax*

Office Seal.

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* Score out whichever is inappropriate.

ANNEX

(See Para 2.27,

Kind of Circle	No. of cases studied	Time lag between the receipt of return & issue of notice u/s 143(2)	Average time lag per case	No. of adjts. given by the I.T.O.	Average No. of adjts. given by the I.T.O. per case
1	2	3	4	5	6
		Years Months	Months Days		
					BOMBAY
Central Circles ..	71	79 1	13 11	167	2·3
Company Circles ..	90	31 6	4 6	147	1·63
Business Circles ..	121	76 8	7 18	149	1·2
Govt. Salary Circles ..	44	24 3	6 18	5	·1
Private Salary Circles ..	30	42 5	16 29	10	·33
TOTAL ..	356	253 11	8 17	478	1·34
					DELHI
Company Circles ..	59	37 9	7 20	66	1·1
Central Circles ..	39	31 10	9 24	52	1·33
Business Circles (non-Co.)	89	76 3	10 8	113	1·3
Govt. Salary Circles	30	13 8	5 14	8	·3
Private Salary Circles ..	30	25 9	10 9	20	·67
TOTAL ..	247	185 3	9 00	259	1·05
					MADRAS
Central Circles ..	57	36 10	7 23	21	·4
Company Circles ..	26	14 00	6 14	10	·4
Salary Circles	49	33 7	8 7	Nil	Nil
TOTAL ..	132	84 5	7 20	31	·2
					PUNJAB
Company Circles ..	69	34 1	5 28	42	·6
Business Circles (including salary Circles) ..	120	47 8	4 23	226	1·9
TOTAL ..	189	81 9	5 6	268	1·4
					KERALA
Business Circles ..	127	13 6	1 8	33	·26
Company Circles ..	36	3 6	1 5	3	·1
Salary Circles	43	6 5	1 24	2	·05
TOTAL ..	206	23 5	1 11	38	·2
GRAND TOTAL ..	1,130	628 9	6 20	1,074	·95

URE 5

Chapter II)

Total No. of adjts. sought by the assessees	Average No. of adjts. sought by assessees per case	Time lag between the last date of hearing and the date of assessment order	Average time lag per case	No. of cases accepted u/s 143(1)	Percentage of cases accepted u/s 143(1)	Remarks
7	8	9	10	11	12	13
		Years months Days	Days			
CHARGE						
47	·7	6 2 29	31	Nil	Nil	
25	·3	8 3 17	33	Nil	Nil	
27	·2	14 5 28	43	Nil	Nil	
14	·3	1 7 13	13	27	61%	
2	·07	9 5 17	113	7	23%	
115	·32	40 1 14	40	34	9·5%	
CHARGE						
47	·8	4 0 25	25	5	8%	
21	·5	2 9 5	25	—	Nil	
46	·5	5 5 6	22	—	Nil	
1	·03	12 7 10	151	7	23%	
3	0·1	0 1 11	1	10	33%	
118	·5	24 11 27	36	22	9%	
CHARGE						
11	·2	3 5 11	22	8	14%	
4	·2	0 6 3	7	6	23%	
0	0	0 7 8	4	44	90%	
15	·1	4 6 22	12	58	44%	
CHARGE						
27	·4	2 11 7	15·3	Nil	0%	
67	·56	6 0 4	18·0	5	4%	
94	·5	8 11 11	17	5	2·6%	
CHARGE						
13	·1	4 5 17	13	Nil	Nil	
4	·1	0 8 23	7	..	..	
2	·05	0 2 14	2	27	63%	
19	·1	5 4 24	9	27	13%	
361	·32	84 0 8	27	146	13%	

ANNEXURE 6

Analysis of disposal of *No assessment cases for the year* 1966-67

Total Number of cases disposed of	Break up of total cases disposed of into				Total No. of N.A. cases included in Col. 3	Percentage of N.A. cases to total disposal
	Salary cases	Company cases	Refund cases	Others		
26,52,907	8,77,613	29,883	34,032	17,11,379	4,21,375	15·88

ANNEXURE 7

Remittance Slip (Counter foil)

Book No.....Sl. No.....

1. Name and address of the assessee .. ..

2. Personal Deposit Account No. .. .. ..

3. General Index Register No.

4. Assessment year ..

5. III Corporation Tax— Advance payment of Tax Rs.

IV Taxes on income .. Rs.

Other than Corporation Tax .. .. .. Rs.

Advance payments of tax III Corporation Tax .. Rs.

IV Taxes on incomes other than Corporation Tax .. .. .. Rs.

Total .. Rs.

6. Challan No.———& date.....
(Amount in words)

Certified that the amounts of tax entered in Col. 5 is correct.

Date *Office Stamp* *Income tax Officer*

Remittance Slip (Foil)

(To be returned to the Collection Depot)

Book No.....Sl. No.....

1. Name and address of the assessee .. ..

2. Personal Deposit Account No. .. .. ..

3. General Index Register No.

4. Assessment year

5. III Corporation Tax— Advance payment of Tax Rs.

IV Taxes on income .. Rs.

Other than Corporation Tax Rs.

Advance payments of tax III Corporation Tax .. Rs.

IV Taxes on income other than Corporation Tax

Total .. Rs.

6. Challan No.....& Date.....
(Amount in words)

Certified that the amounts of tax entered in Col. 5 is correct.

Date *Office Stamp* *Income tax Officer*

ANNEXURE 8

Day Book

Collection Depot No..... *Dated.....*

Serial No.	Remittance Slip Book No./Sl. No.	Name of Assessee	No. of T.R. 5 Ackdgt.	Amount in Cash	Amount by Cheque
1	2	3	4	5	6

ANNEXURE 9

.....Collection Depot. **Cash Book for the month of**.....19

Receipt Side					Payment Side					
Date of Receipt	Particulars	Amount		Remarks	Date of Payment	Vr. No./ Challan No.	Particulars	Amount		Remarks
		Cash	Cheque					Cash	Cheque	
1	2	3	4	5	6	7	8	9	10	11

ANNEXURE 10

Register of Cheques received and adjusted

Serial No.	Date of Receipt	Remittance Slip Book No./Sl. No.	Ordinary Receipt No.	From whom Received	Name of the Bank Cheque No. & Date	Amount	Date of despatch to the Bank	Date of adjustment	T.R. 5 Receipt No. & date of Issue	Initials of the officer/ incharge of the collection Depot	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

ANNEXURE 11

Collection Depot No..... for the month of.....19

NOTE—The classified Abstract is to be taken by major, minor and detailed heads.

Serial No.	Date	No. of Remittance Slip Book No./ Sl. No.	Name of Assessee	Total Amount	III. C.T.					IV. I.T.				
					I.T. on companies	E.P.T.	B.P.T.	S.P.T. / S.T.	Advance payment of tax etc.	I.T.	Surcharge	E.P.T.	B.P.T.	Advance payment etc.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

ANNEXURE 12

Personal Ledger Account

Name of Assessee..... G.I.R. No. ..... Account No. .....

Particulars of Remittance Slip		Particulars of transaction	Debit	Credit	Reference to Receipt No. in T.R. 5 in respect of Credits	Balance	Initial of Collection Income Tax Officer
Date	Book No.						
1	2	3	4	5	6	7	8

ANNEXURE 13

Analysis of Appeals before the Incometax Appellate Tribunal during the years 1959-60 *to* 1966-67 (*Incometax only*)

Serial No.	Year	Appeals of the Department						Appeals of the assessees					
		No. pending at the beginning of the year	No. filed during the year	No. disposed of during the year			No. pending at the end of the year	No. pending at the beginning of the year	No. filed during the year	No. disposed of during the year			
				In favour of the Department	Against the Department	Total				In favour of the assessees	Against the assessee	Total	No. pending at the end of the year
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	1959-60	1741	1593	512	563	1075	2259	11763	9975	5700	2871	8571	13167
2	1960-61	2259	1538	660	1036	1696	2101	13167	9858	8009	3158	11167	11858
3	1961-62	2101	1694	607	830	1437	2358	11858	10147	6747	2713	9460	12545
4	1962-63	2358	2209	573	1017	1590	2977	12545	11000	8174	3179	11353	12192
5	1963-64	2977	2847	572	1218	1790	4034	12192	14387	7735	2510	10245	16334
6	1964-65	4034	3155	621	1228	1849	5340	16334	12879	7117	2125	9242	19971
7	1965-66	5340	3286	646	1583	2229	6397	19971	13558	7588	2396	9984	23545
8	1966-67	6397	3579	622	1865	2487	7489	23545	17992	8751	2326	11077	30460

Source—Information furnished by the Central Board of Direct Taxes.

ANNEXURE 14

Registers recommended for discontinuance

S. No.	Name of the Register	Brief reasons for discontinuance
1	2	3
1	Daily Stamp Register	Consolidated Stamp Account prescribed in Despatch Register.
2	Register of irrecoverable demands	The remarks column in Demand and Collection Register may indicate irrecoverable demand.
3	Register of computation of percentage of profits of companies.	Grossing up of dividends is not done now.
4	Annual Number Register	Information available in I.T.O's Control Register.
5	Trial cases Register	Could be combined with Investigation Register.
6	Register of Starred Assessees ..	Stars may be marked in the G.I.R.
7	Register of Black-listed assessees ..	Names in the G.I.R. may be so marked.
8	Register of High Denomination Notes	Out of date.
9	Adjustment Collection Book	There is now a separate register prescribed for this purpose known as Adjustment Register.
10	Forward Diary of cases	Same purpose now served by Daily Fixation Register.
11	Register U/s 23A (Old)	Provision for recording "old Act" cases may be made in the new register prescribed for sec. 104 cases.
12	Register of companies in respect of which large dividend warrants are received.	No grossing up of dividends is done now.

ANNEXURE 15

Statistical Returns recommended for discontinuance

Serial No.	Name of the statement	Periodicity	Brief reasons for discontinuance
1	2	3	4
1	Recovery of I.T. demand outstanding against the mill-owners of Kanpur.	Monthly	This is not prescribed in all the charges. C.I.T., U.P. where this statement is in vogue recommends discontinuance.
2	Statement regarding verification of E.P.T. Deposit Balance.	Monthly	All EPT/BPT statements may be consolidated and prepared annually and other statements discontinued.
3	Statement showing D.E.P.T. Relief in respect of U.K.	Annual	Do.
4	Statement showing D.E.P.T. Relief in respect of countries other than U.K.	Annual	Do.
5	Statistical return of E.P.T. and penalties charged/discharged collected and repayed.	Annual	Do.
6	E.P.T. Optional Deposits and Compulsory Deposits under Ordinance No. VI of 1943.	Annual	Do.
7	Statistical return of E.P.T., B.P.T. Compulsory Deposits demanded, collected and refunded.	Annual	Do.
8	Statement showing postwar E.P.T. Refunds.	Annual	Do.
9	Statement showing cases in which leave preparatory to retirement is refused to Class I and Class II officers.	Quarterly	Not of much use as the number of such cases is small.
10	Statement regarding refund of cancellation charges on unused Air Tickets.	Quarterly	Not of much use.
11	Statement regarding freight charges for transport by Air.	Half-yearly	Not of much use.
12	Statement of cases settled U/s 34(IB)	Annual	Out of date since the section has become obsolete.
13	Statement regarding exemption U/s 99(1) (*iv*) of I.T. Act.	Annual	Section omitted by Finance Act, 1965.
14	Statement of Additional amount payable by Govt. and funding of interest in respect of deposits made U/s 10 of the Finance Act, 1942.	Annual	Obsolete.
15	Statement regarding European British National Service in India.	Annual	Obsolete.
16	Statement regarding High Denomination Notes.	Half-yearly	Out of date.

ANNEXURE 15—*contd.*

1	2	3	4
17	Statement showing losses c.f. U/s 72	Annual	Not of much use. Required information is compiled by the Statistician from Assessment forms.
18	Arrear Clearance and Collection Drive.	Monthly	Information available in quarterly statement.
19	Control Statistics of I. T. assessments (advance copies received from IACs)	Monthly	Information available in M.P.R.
20	Report regarding Administrative Inspection by I.T.Os.	Half-yearly	Inspection by I.A.Cs. should be made more frequent. Self-inspection by ITO does not serve any useful purpose.
21	Statement regarding penalty cases	Monthly	Available in MPR
22	Statement showing infructuous cases included in disposals.	Monthly/ Quarterly	Do.
23	Statement showing Refund Application disposed of	Monthly	Do.
24	Statement regarding old voluntary and quasi-voluntary disclosures.	Annual	Out of date
25	Statement regarding concealment of cases—Printing of CBR Bulletin.	Half-yearly	Statement should be discontinued and the officer should be encouraged to send such articles as and when they come across any cases.
26	Statement showing Refund work and proceedings U/s 104.	Monthly	Available in M.P.R.
27	Statement showing Trunk calls paid from contingencies.	Quarterly	Not of much use.
28	Statement showing infructuous cases borne on the G.I.R.	Quarterly	May be provided in M.P.R.
29	Ward-wise (Budget) Net Collection Statement.	Monthly	May be included in M.P.R.
30	Statement of collection made U/s 141A(1) from assessees who are eligible for discount of 1%.	Annual	This section has been deleted.
31	Statement regarding G.P.F. Class IV	Quarterly	The accounts are now maintained by Controlling Officers.
32	Revised statement showing Demand, Collection and Balance in respect of I.T.	Quarterly	Superfluous. No major change is noticed in the original figures.
33	Statement regarding cases in which effect has not been given to appellate orders.	Monthly	Available in M.P.R.
34	Statement regarding levy of interest U/s 139 and 220(2) and interest payable by Govt. U/s 243 and 244.	Annual	Consolidated information regarding interest is available in M.P.R.

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